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EDITORS’ PREFACE

Are the laws silent in time of war? The federal Constitution does not die when the United States goes to war. In fact, the Constitution provides for wartime exigency, for example, allowing Congress to suspend the writ of habeas corpus in time of war or civil insurrection. But nothing in the Constitution itself permits the wholesale denial of civil rights and liberties associated with citizenship simply on the basis of the ancestry of a group. The Fourteenth Amendment defined citizenship in simple terms—birth in the United States or naturalization. Despite these solemn and celebrated texts, at the beginning of World War II, Congress, the president, the departments of state and war, and the US Army agreed that native-born Japanese men, women, and children residing on the West Coast could be forcibly removed from their homes and “relocated” to prison camps in the desert and the mountains of the West. Relocation itself was not unprecedented—the removal of Indians from their ancestral lands to “reservations” in Oklahoma and elsewhere during the nineteenth century was a national disgrace. Then, the Supreme Court rejected the dispossession of the Indians, to no avail. In the Japanese internment cases described here in movingly frank detail, the Supreme Court dodged its duty to interpret the Constitution, allowing racism and irrational fears to perpetrate another national tragedy.

Roger Daniels is one of the country’s foremost historians of immigration and ethnicity. The tale he tells here is not just one of law. It is the story of a people who sought the American dream in a new land, built businesses, and started families, who truly loved their adopted country, and found how unmerited prejudice can turn a democracy into an engine of injustice. Men of goodwill in the federal government set aside their qualms or remained quiet as the injustice spread across the West Coast. When a relative handful of the internees brought lawsuits to protest their treatment, federal judges found claims of national security outweighed constitutional rights. From the bench a few judges and justices spoke out against the relocation, but they were the minority. Daniels tracks the cases from the decisions of individual counsel who had the courage to buck the White House all the way to the high court. He takes us behind the
scenes at the Marble Palace in the District of Columbia, where the justices deliberated. He uncovers the machinations of those who concealed information that would have shown the relocation was never a military necessity. He compares the fate of the continental Japanese Americans with those who lived, and were never interned, on the Hawaiian Islands.

Daniels does not close his account with the outcome of the constitutional cases. He follows the story to reparations for those wrongly interned and reminds us that not all the internees were docile or obedient. What is even more important, he brings the story of the camps to life, adding vital human context to the legal challenges. There are other accounts of these cases, but none any more essential reading than this. For Daniels understands that the law is about people, and that is a lesson we must never forget.
Although it does not take a village to make a book, scholarship in the Internet age has become more collaborative. My chief intellectual debts incurred in writing this book are to Barbara Takei, who modified my views about the camp at Tule Lake, and to Peter Irons’s trailblazing scholarship since 1983, as noted in the text. I profited greatly from critical readings of the first two chapters by Eric Muller and of single chapters by Eileen Tamura and by Anna Tamura, who are not related.

Harry and Jane Scheiber were gracious hosts when I put forth the nucleus of this book in a Constitution Day lecture at Berkeley in 2010. Although I am now separated from my home university by two-thirds of a continent, University of Cincinnati librarians Sally Moffitt and Dan Gottlieb, and James Hart of the university’s law library, each provided key assistance. Another continuing source of information and consistently good advice is Art Hansen. A great advantage of being in the Pacific Northwest, apart from the presence of my grandsons and their parents, is the ability to draw upon the wisdom, assets, and friendship of Tom Ikeda, whose Densho team is creating the outstanding online archive of Japanese American history and culture. Among those who have assisted me in the creation of the book in hand are Jasmine Alinder, Margo Anderson, Allan W. Austin, Lori Bannai, Tom Crouch, Stan Falk, Art Hansen, Don Hata, Lane Hirabayashi, John Howard, Kris Lindenmeyer, Karen Korematsu, Dale Minami, Brian Niiya, Dwight Pitcaithley, Greg Robinson, Linda Tamura, Tetsuden Kashima, and Allan Winkler.

At the University Press of Kansas, Mike Briggs commissioned what became this book in 2003 and waited, patiently, until I cleared my desk of prior commitments. Once the actual writing began, in 2012, he provided counsel and encouragement. Peter Hoffer was a supportive series editor. In the production process Production Editor Kelly Chrisman Jacques guided the flow with clarity, dispatch, and occasional humor; Susan Ecklund edited the copy and Mary Brooks read proof without unnecessary fuss; and Kathleen Rocheleau provided a useful index. I was particularly pleased with Art Director Karl Janssen’s choice of the Lange image for the cover, and I hope that
Publicity Manager Rebecca Murray Schuler and Marketing Director Mike Kehoe persuade lots of folks to buy the book.

Finally, and most important, I attest that for more than half a century, Judith, on an almost daily basis, and in crisis times almost hourly, has interrupted her own work and leisure to listen, read, react, mark up, and counsel. She has been an integral part of whatever bears my name.
AUTHOR’S PREFACE

This account of the Japanese American cases of 1942–1944 and 1983–1987 is also a partial account of the ordeal of the Japanese American community and its partially successful struggle to obtain a kind of justice from the government that had grievously inflicted unearned punishments upon it. The book is thus also a history of the public reputation of Japanese Americans, a task I began with the publication of The Politics of Prejudice in 1962. In that half century a civil and human rights revolution took place that has largely removed statutory discriminations based on race. While the current celebratory recognition of its accomplishments focuses, understandably, on its effects—or lack of them—on and by African Americans, the revolution affected and improved the legal status of all persons of color, while leaving the socioeconomic status of most such persons largely unchanged.
As World War II was coming to an end, Eugene V. Rostow (1913–2002), an assistant professor in the Yale Law School, published two articles, one in his school’s law review, the other in Harper’s magazine, in which he coined the term the “Japanese American cases.” He addressed only the four Supreme Court cases stemming from President Franklin Delano Roosevelt’s Executive Order 9066 of February 19, 1942, which, with other edicts and statutes, enabled the now infamous wartime incarceration of 120,000 Japanese Americans, more than two-thirds of them American citizens.

In this book I use Rostow’s phrase, which has become part of our common language, to analyze not only those cases but also a much wider range of cases in federal courts involving military service, citizenship, loyalty, damages, and redress, as well as statutes and other political actions stemming from those cases in the sixty-eight years since Rostow wrote. As Rostow hoped to influence public opinion—and clearly did so—I also will consider how all the cases shaped and were shaped by public opinion. This is, in the final analysis, the story of the encounters of one American ethnic group with American racism as reflected in legal activities by all three branches of the federal government. The cases have been so essential in the evolution of the Japanese American community that the following account is, in part, a pocket history of Japanese Americans.

I can think of no more appropriate way to begin than to quote the forward-looking concluding paragraphs of Rostow’s “Our Worst Wartime Mistake,” published in Harper’s for September 1945:

Three chief forms of reparation are available, and should be pursued. The first is the inescapable obligation of the federal government to protect the civil rights of Japanese-Americans against organized and unorganized hooliganism. If local law enforcement fails, federal prosecutions under the nation’s Civil Rights Act should be undertaken.

Secondly, generous financial indemnity should be sought. Apart from the sufferings of their imprisonment, the Japanese-Americans have sustained heavy property losses from their evacuation.
Finally, the basic issues should be presented to the Supreme Court again, in an effort to obtain a prompt reversal of these wartime cases. The Supreme Court has often corrected its own errors in the past, especially when that error was occasioned by the excitement of a tense moment. After the end of the Civil War, several earlier decisions were reversed by *Ex Parte Milligan*. The famous flag-salute case of 1940 has recently been overruled in the decision of *West Virginia v. Barnett*. Similar public expiation in the case of the Japanese-Americans would be good for the court, and for the country.
In the spring of 1942, four young Nisei, second-generation Japanese Americans, acted to institute the lawsuits that became the Japanese American Cases. The litigants, Minoru Yasui (1916–1986), Gordon K. Hirabayashi (1918–2012), Fred T. Korematsu (1919–2005), and Mitsuye Endo (1920–2006), chose to resist government oppression in test cases. They challenged the constitutionality of federal government actions, which, as an alleged matter of “military necessity,” deprived them and some 70,000 other American citizens of their liberty solely on the basis of their ancestry. All in their twenties, these four were not initially aware of one another and received little support from the institutions of their own ethnic community or from those of the larger society that should have been sympathetic to their cause. The American Civil Liberties Union (ACLU) initially promised support for one of the cases but quickly withdrew it; a number of individual attorneys associated with the ACLU’s West Coast chapters did provide counsel. In 1943, when the cases began to reach the Supreme Court, the national body did file amicus briefs in favor of the litigants, but during the crucial ten weeks after Pearl Harbor it made no public attack on government actions or rhetoric directed against Japanese Americans. As this volume went to press in 2013, the ACLU was still lying about its shameful role in the Japanese American Cases; its official website claimed:

The ACLU, led by its California affiliates, stood alone in speaking out about this atrocity. Arrayed against the four protesting Nisei in the spring of 1942 were not only the power of the United States Government but the all but unanimous force of public opinion outraged by a “dastardly attack” by “naval and air forces of the Empire of Japan” on American naval and military bases in and around Honolulu on December 7, 1941. The one significant orga-
nization of the Nisei generation, whose leaders were appalled that their government refused to recognize their constitutional rights to liberty and equal protection under the law, nevertheless chose not to protest and went on to attack the Nisei litigants and others who urged protest if not resistance.

Although the Pearl Harbor attack was a surprise, war with Japan had long been anticipated. Even before World War I, American military authorities had identified Japan as the most probable Pacific enemy. The Soviet dictator V. I. Lenin had noted in 1920 that Japan and America “cannot live in peace on the shores of the Pacific although those shores are three thousand versts apart. . . . That war is brewing, that war is inevitable, is beyond doubt.”

Before that, Japan’s stunning defeat of czarist Russia in 1904–1905 had served notice that it was a force to be reckoned with, and three successive American presidents—Theodore Roosevelt, William Howard Taft, and Woodrow Wilson—made serious efforts to lessen trans-Pacific tensions. But significant and persistent issues remained between Tokyo and Washington.

American expansion across the Pacific as a result of the Spanish American War of 1898 created an overseas American empire whose western Pacific outposts, particularly Guam and the Philippines, were places that Tokyo felt ought to be within its own sphere of influence. Washington soon discovered that defending the Philippines from a possible Japanese attack would require a large permanent military presence in the islands that was far beyond what American politics would permit. The Filipinos were thus promised eventual independence; legislation passed by Congress in 1934 provided that the Philippines would become independent on July 4, 1945.

Another bone of contention between the Pacific rivals was the American Open Door policy which held that all modern nations should have equal rights in exploiting China; Japan insisted that it, as the most powerful East Asian nation, should have special rights there. When World War I broke out, Japan, long allied with Britain, quickly declared war on Germany and seized its territories in China and its small island possessions in the South Pacific. It also issued the Twenty-One Demands on China for further concessions. One of Japan’s rationales for its policies was that it merely wished to exercise
the same kind of oversight in East and Southeast Asia that the United States exercised in the Western Hemisphere. At the 1919 Versailles Peace Conference, President Wilson and Japan’s delegates clashed over Japan’s demands on China.

A further issue was created by American immigration and naturalization policies. Until 1882 there were no restrictions on the immigration of free persons to the United States; in that year Congress passed the Chinese Exclusion Act, initiating a seventy-year period of explicit racial discrimination in American immigration law. By the turn of the century there was an increasing call for a similar prohibition against Japanese immigrants. This created one of Tokyo’s worst nightmares: it was convinced that a Japanese Exclusion Act would be detrimental to its aspirations for great power status. During a quarter century Japanese and American diplomats made arrangements such as the Gentlemen’s Agreement of 1907–1908 under which the Japanese government regulated and diminished immigration from Japan, and the United States refrained from measures directed specifically against Japanese. In 1924 Congress, against the wishes of the State Department, abrogated the agreement unilaterally by banning any further immigration by aliens ineligible for citizenship, which included Japanese.

None of the Japanese who immigrated to the United States in that era could become naturalized citizens because naturalization was limited by statute to “white persons” and those of African birth or origin until 1952. An acculturated Japanese immigrant, Takeo Ozawa (b. 1875), filed a suit contesting the naturalization statute’s color bar, which a unanimous Supreme Court rejected in Ozawa v. US (1922). But because the Fourteenth Amendment to the Constitution, in creating a national citizenship in 1868, had specified that “all persons born . . . in the United States . . . are citizens of the United States and the state in which they reside,” the children of immigrants, including our Nisei litigants, were birthright citizens and entitled to all the rights and protections granted by the Constitution.

Passage of the 1924 immigration act with its provision barring the immigration of “aliens ineligible to citizenship” took anti-Japanese actions in the United States off the boil but triggered massive anti-American demonstrations in Tokyo and created deep-seated and long-lasting resentment in Japan. Writing in 1950, the diplomati-
historian George F. Kennan noted in his provocative *American Diplo-
macy, 1900–1950* that the “long and unhappy story” of US-Japanese
relationships in the twentieth century was constantly worsened by
the fact that “we would repeatedly irritate and offend the sensitive
Japanese by our immigration policies and the treatment of people of
Japanese lineage . . . in this country.”

Although a sizable number of Japanese immigrants, discour-
aged by worsening trans-Pacific relationships, returned to Japan af-
after 1924, many taking US citizen children with them, the Japanese
American population continued to grow. The number of Japanese
persons in the continental United States grew from 24,000 in 1900
to 127,000 in 1940, and in the territory of Hawaii from 59,000 to
158,000 in the same period. In each place, by 1940 about two-thirds
were native-born American citizens, and within the United States all
but 15,000 lived in the three West Coast states.

Japanese of both generations represented only 0.09 percent of
the American population in 1940, that is, 9 persons in 10,000; in
the three Pacific states where their incidence was highest, they were
1.2 percent of the total, 12 persons in 1,000, with a slightly larger
reckoning, 14 persons in 1,000, in California. In the multicultural
territory of Hawaii, not then generally included in American popula-
data, Japanese were the largest ethnic group, amounting to 37.5
percent of the population, more than 1 person in 3.

Trans-Pacific tensions, which had slackened somewhat in the later
1920s, increased sharply after Japan seized China’s rich northeast-
ern province of Manchuria in 1931, renamed it Manchukuo, and
installed a member of China’s former imperial family as its puppet
ruler. In 1936 Tokyo allied itself with Berlin and Rome in a treaty
nominally directed against the Soviet Union, and the following year
Japan began an undeclared war with China that continued until Japan
surrendered to the United States in 1945. The United States ver-
bally opposed Japanese expansion, granted minimal aid and credits
to China, and continued to sell much larger amounts of war materials
to resource-poor Japan.

After World War II broke out in September 1939, Japan, as it
had done in World War I, sought to gain advantages from Euro-
pean distress. Even before France fell in June 1940, Japan pressured
French colonial officials in Vietnam—then called French Indochina
by Westerners—to cut off rail shipments from Hanoi to China. By September 1940 several thousand Japanese troops had taken up positions in northern Vietnam, and in July 1941, 125,000 Japanese troops took over southern Vietnam. The United States only then cut off all military supplies to Japan and began the long, fruitless negotiations in Washington that ended only on Sunday, December 7, 1941.

While many Japanese Americans were oblivious to world affairs, the two generations reacted differently. The immigrant generation got most of its news from Japanese-language newspapers and radio broadcasts whose major source was Domei, a news service controlled by the Japanese government, and tended to support Japan’s expansionist policies. All the institutions of the immigrant community—the associational groups based on place of birth in Japan, the business and professional groups of the nihonmachi (Japantowns)—were Japan and Japanese language oriented. Like most other American immigrants, the Issei (first-generation immigrants) continued to support institutions of their native land. Most kept their savings in American branches of Japanese banks. Denied the right of naturalization, the Issei could not become voters. Most trade unions and trade associations of the larger society barred them from membership. If they attended a Buddhist temple, it had been nurtured and supervised by religious organizations in Japan; if they attended a Christian church, the celebrant was likely to be a former missionary and the congregation a segregated one.

Most Nisei, who could neither read Japanese nor understand complex discourse in that language, got their news from American sources. More than most other children of immigrants, they were urged to persist and excel in the public schools, and most acquired American ideals. Japanese American students received academic honors to a much greater degree than their incidence in the school population would have suggested. In Seattle’s nine public high schools in 1937, three of the valedictorians and two of the salutatorians were Nisei. Their parents and the ethnic community exulted in their success.

That academic success, which a relatively large percentage of Japanese American students continued in colleges and universities, rarely resulted in the kinds of economic success that white graduates achieved. No public school on the West Coast hired a Nisei teacher.
until well after World War II. A relatively few Nisei won public employment in civil service jobs, but the vast majority of college graduates either provided professional services for the ethnic community or had to find jobs within the ethnic economy for which they were overqualified. One of the all too accurate stereotypes of Nisei life in the 1930s was the college graduate who managed a fruit stand, often marketing produce grown by members of his family.

By the later 1930s, increasing numbers of Japanese Americans had become anxious about their fate should there be a war with Japan. As one Nisei student at the University of California wrote in a Berkeley magazine in 1937: “What are we going to do if war does break out between the United States and Japan? . . . In common language we can say ‘we’re sunk.’ Even if the Nisei wanted to fight for America, what chances? Not a chance! . . . our properties would be confiscated and most likely [we would be] herded into prison camps—perhaps we would be slaughtered on the spot.”

Such extreme fears were not common then, but they were clearly more prevalent in 1941, when a Nisei spoke to a Los Angeles Times columnist. After telling him that many if not most of the older generation were pro-Japan, he spoke of his own generation’s fears: “We talk of almost nothing but this great crisis. We don’t know what’s going to happen. Sometimes we only look for a concentration camp.”

At the beginning of World War II the United States Government began to make concrete plans appropriate to its neutral status and contingency plans in case it should become involved in the conflict. The immediate task was providing internment facilities for German seamen—and, after Mussolini entered the war in mid-1940, Italian seamen—from vessels whose captains chose to enter or stay in American ports rather than risk almost certain capture by the British navy if they put to sea. More than 1,600 German and Italian seamen plus a few other persons without immigrant status were the only peacetime internees in the United States. They were eventually housed in three existing military facilities under Immigration and Naturalization Service (INS) supervision. In addition, the State Department, which had activated its Special War Problems Division on September 1, 1939, kept a watching brief to make sure that the conditions of confinement comport with the Geneva Convention. After the fall of France in June 1940, amid widely believed false reports that “fifth columnists”
had been largely responsible, President Franklin D. Roosevelt publicly transferred the INS from the protective Department of Labor to the prosecutorial Department of Justice (DoJ), signed the Alien Registration Act, and in early September secretly empowered the FBI to investigate foreign espionage and gave it unprecedented authority to wiretap.

The Alien Registration Act for the first time required all resident aliens to register, be fingerprinted, and inform the government of any change of address. Each was issued an identity card, essentially an internal passport that, unlike the draft cards required for all men of military age later that year, they did not have to carry. The alien registration, accomplished at post offices at Roosevelt’s insistence, revealed that there were almost 5 million aliens; the INS anticipated 3.6 million. More than a million—almost 700,000 Italians, more than 300,000 Germans, and 91,000 Japanese—would become enemy aliens after Pearl Harbor. Under existing American law all enemy aliens fourteen years of age and older would be liable to internment at the discretion of the government as “alien enemies.”

American security officials, civilian and military, never intended to seize any sizable percentage of the alien enemy population. Their efforts, overseen by a Justice Department and War Department joint committee but largely done within the DoJ, focused on Japanese and Germans. It produced a sizable Custodial Detention List of likely candidates for internment. The list was divided into three categories labeled A, B, and C to indicate presumed importance. The committee’s plan was that arrested aliens would eventually be brought before a local Alien Enemy Hearing Board—there were some ninety of them—to tell their stories without counsel; board recommendations were advisory. A final decision in each case would be made by the attorney general. At no time in the period before war came to the United States was there any formal discussion of the incarceration of American citizens.

The attack on Pearl Harbor triggered the planned response. Late that Sunday the first roundups began, and within twenty-four hours the FBI, often aided by local law enforcement, had arrested 1,717 enemy aliens, 1,212 of them Japanese. The authority for this action was contained in three separate presidential proclamations dated December 7 and 8, 1941, as provided for in Title 50 of the US Code. The
first stated that “an invasion has been perpetrated upon the territory of the United States by the empire of Japan,” while the second and third stated that “an invasion or predatory incursion is threatened” by Germany and Italy. All three went on to describe the conduct required of alien enemies and warned that those “deemed dangerous to the public peace and safety of the United States” were subject to “summary apprehension.”

Summary apprehension did not mean automatic internment; perhaps most of the thousands initially arrested were quickly released. The best estimate, by Louis Fiset, is that fewer than 111,000 resident enemy aliens—8,000 Japanese, 2,300 Germans, and 200 Italians—were actually interned. In addition, some 3,100 Japanese nationals, initially rounded up by the army and held by the War Relocation Authority (WRA), were subsequently transferred to the DoJ camps. (The WRA is discussed later in this chapter.) About a thousand enemy diplomats were interned and housed at resort hotels operated by the government until they could be exchanged for American diplomats.

A very different secret State Department program resulted in the rendition of 4,088 Germans, 2,264 Japanese, and 288 Italians from a number of South and Central American nations with Pacific coastlines, to the United States and internment in DoJ camps. Of the Japanese, it is estimated that 80 percent came from Peru. The conditions of confinement in the DoJ camps, for both domestic enemy aliens and those imported, generally met or exceeded the standards called for in the Geneva Convention, although there were instances of brutality, including three homicides committed by guards. There were four homicides committed by soldier’s guarding WRA camps.

Except for the harebrained State Department rendition scheme, the government’s actions had been within the limits of the law. It is clear that the overwhelming majority of those seized posed no threat to the United States. Unfortunately, superimposed upon these generally not unreasonable restraints was a program of mass incarceration of the entire ethnic Japanese population of the West Coast, citizen and alien alike. It was thrown together by military bureaucrats, all lawyers, partly in response to an inflamed public opinion, and called for by increasing numbers of elected and appointed public officials. Eventually it was supported by Secretary of War Henry L. Stim-
son, who, in a telephone conversation on February 11, persuaded the president to agree to sign an executive order, which the War Department would present to him eight days later.

We have no transcript, but shortly afterward Stimson’s right-hand man, Assistant Secretary of War John J. McCloy, told a colleague in San Francisco: “The President, in substance, says go ahead and do anything you think necessary . . . if it involves citizens, we will take care of them too. He says there will probably be some repercussions, but it has got to be dictated by military necessity, but as he puts it, ‘Be as reasonable as you can.’”

McCloy went on to say that he thought the president would sign an executive order giving the army authority to evacuate the entire West Coast, although he noted that Stimson wanted to start by evacuating areas around two large bomber plants in Los Angeles. McCloy indicated that he thought he could bring the secretary around to a total as opposed to a partial evacuation.

Originally, neither Stimson nor McCloy, both lawyers, favored acting against citizens. The night before Stimson got his “carte blanche” from the president, the war secretary had written in his diary: “The racial characteristics [of Japanese, often described by Westerners as “inscrutable”] are such that we cannot understand or trust even the citizen Japanese. This latter is the fact but I am afraid it will make a tremendous hole in our constitutional system to apply it.”

McCloy, in arguing with his Justice Department colleagues, on February 1, had put the case more crudely. After Attorney General Francis Biddle insisted that the Justice Department could not support any interference with the rights of citizens, McCloy responded: “You are putting a Wall Street lawyer in a helluva box, but if it is a question of the safety of the country [and] the Constitution . . . why the Constitution is just a scrap of paper to me.”

Why did the president agree? There is no easy answer to that question. Roosevelt himself never discussed or even mentioned his reasons in a public discourse, nor has any one of his associates claimed to have heard him do so privately.

When Roosevelt looked at his war maps on the morning of February 11, he could see that the Japanese drive south had achieved landings on various islands of what is now Indonesia—Borneo, Celebes, and Amboina—and on New Guinea; that its drive east was ap-
proaching Rangoon in Burma; and that the invested British bastion at Singapore seemed doomed, as were the besieged and outnumbered American forces on the Bataan Peninsula in the Philippines, which he knew he could not meaningfully reinforce. Mid-Pacific Wake Island, with its small Marine Corps garrison, had been overcome just before Christmas. American naval vessels in Southeast Asian waters in collaboration with British and Dutch warships were outnumbered by Japanese naval forces, which had command of the air.

He had no reason to fear a Japanese invasion of the West Coast. The president had told Stimson that “military necessity” must be the rationale, but they both knew from the briefings they regularly received from the Chiefs of Staff and their subordinates that although Hawaii was surely still at risk and that one or more hit-and-run raids on the West Coast were an outside possibility, there was no likelihood of an invasion of the United States.

The president also knew from his own scanning of eleven newspapers each day, as well as from reports on the West Coast press and public opinion from his Office of Government Reports, that there was growing agitation on the West Coast to do something about the presence of thousands of Japanese persons in the region. He was aware that West Coast members of Congress, Democrats as well as Republicans, were united in their demands that something be done to ease the fears of their constituents, which many of them shared, about the presumed dangers from the Japanese in their midst.

Although Roosevelt apparently never doubted eventual American victory, and despite the stunning successes of the Japanese forces, he remained committed to a Germany-first strategy established almost a year before Pearl Harbor. His final objective, beyond victory, was a new international order. He had bitter memories of how President Wilson’s similar dreams had come to naught after the Democrats had lost control of Congress in the off-year election of 1918. The next off-year election was less than nine months away. It seems to me likely that the president’s fear of the political consequences of not taking steps against the West Coast Japanese was more significant than any fears he might have had of invasion or sabotage.

It is also significant that he received support from his cabinet, once its members became aware of what Stimson and his men were planning. Although Attorney General Biddle and most of his subordi-
nates struggled with Stimson’s men in trying to maintain the rights of Japanese Americans, they regularly deferred to their demands. Biddle, the junior member of the cabinet both in age and in service—he had been appointed in September 1941—provided this rationalization in his 1962 memoir: “If, instead of dealing almost exclusively with McCloy . . . I had urged the Secretary to resist the pressure of his subordinates, the result might have been different. But I was new to the Cabinet, and disinclined to insist on my view to an elder statesman, whose wisdom and integrity I greatly respected.”

What Biddle does not say is that he failed utterly in one of his chief duties as attorney general: to give legal advice to the president. He gave none on the subject except to suggest that the president explain his actions to the people.

If the president needed further reinforcement for his decision, it was provided on February 13, when he received a resolution signed by every member of Congress from the West Coast, which had been given to the press, calling for “the immediate evacuation of all persons of Japanese lineage and all others, aliens and citizens alike from the states of California, Oregon, and Washington, and the territory of Alaska.”

On February 19, 1942, a day of infamy as far as the Constitution is concerned, the president signed Executive Order 9066 (EO 9066), sent over from the War Department. A mere reading of the text of fewer than 800 words gives no indication of its intent. No ethnic group or specific location is mentioned. Its key passage was a sweeping transfer of presumed presidential power:

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.

Attorney General Biddle, not the secretary of war, explained it to the press in Washington on February 20 when the news broke, and as is often the case with official explanations of unpleasant actions, some of what he said was simply untrue. Biddle announced accurately that the president had issued the order at the request of Secretary Stimson, stressed that it was not “martial law,” so habeas corpus was not suspended, and said that in his opinion “the courts would say ‘This is a military matter and we will not go beyond it.’” He granted that the primary targets were the West Coast Japanese, both citizen and alien, but falsely added that the move “was taken largely for the protection of the Japanese themselves.” He knew from his conversations with Stimson and others that the War Department’s chief concern was the aircraft plants of Southern California and Seattle. In any event, Lewis Wood of the New York Times learned enough to report accurately: “President Roosevelt in a drastic move authorized the Secretary of War . . . to eject any or all citizens or aliens from designated military control areas. Primarily aimed at Japanese residents on the Pacific Coast, the order could assure a mass evacuation from the Western seaboard to the inland States, and could be applied as well to regions all over the country.”

Three days later, in his fireside chat of February 23, 1942, in which he discussed the war, Roosevelt had an ideal opportunity to explain his action, but he did not take it or any of the other innumerable opportunities he had to do so. The all but universal level of approval that decision received from the press, politicians, and the general public made it easy for him to evade explanation. As stated earlier, he never attempted to make an explanation in public, and if he made one in private, to Eleanor or anyone else, there is no known record of it.

Before we turn from the perpetrators to the victims, there is a glaring incongruity that needs to be addressed. How was it that the small, and by mid-February largely terrorized, Japanese American minority in West Coast states (which had been essentially untouched
by war) had to be exiled and eventually locked up in ten improvised concentration camps stretching from eastern California to the Arkansas Delta, whereas in war-torn Hawaii, where every third person was of Japanese ancestry, fewer than 700 Japanese persons, just over 10 percent of them citizens, were incarcerated in several small facilities, and only 1,875 Hawaiian residents of Japanese ancestry, mostly citizens, were ever sent to the mainland for internment in DoJ camps or incarceration in the camps operated by the WRA to house the evicted Japanese? By April 1943 such movement ceased. And rather than persons judged dangerous, many were individuals of low income who were more of a drain than a benefit to the Hawaiian economy and war effort.

The incongruity of this was not lost on Washington’s civilian policy makers. They, with navy secretary Frank Knox (1874–1944) in the lead, often backed up by the president, persistently pushed for mass incarceration of all Japanese in Hawaii, on an island other than Oahu, where the vast majority of them lived. Because martial law had immediately been declared after the attack, there were no legal impediments to this. By December 10 the army in Hawaii had in custody 482 Japanese persons, 43 of them American citizens. Strict censorship of all communications between Hawaii and the mainland was established so that information generally known in Hawaii was unknown on the mainland. Two companies of the federalized Hawaiian National Guard, which were entrenched on Hawaiian beaches waiting for the enemy that never came, had large numbers of Nisei officers and enlisted men. In the weeks after Pearl Harbor they continued to bear arms in the territory’s defense.

On December 17 the new Hawaiian army commander Lieutenant General Delos C. Emmons replaced the disgraced Major General Walter C. Short. Four days later Emmons announced publicly that there had been no sabotage during or after the Pearl Harbor attack and renewed a pledge made by his predecessor the previous summer that if the Japanese population remained loyal to the United States in a war with Japan, it would receive fair treatment. This was published in Honolulu newspapers but not transmitted to the mainland press. Emmons was not then aware that two days before, in response to arguments from navy secretary Knox, supported by the president, the cabinet had endorsed the incarceration of the entire Japanese popula-
tion of Oahu—an estimated 118,000 persons, all but 20,000 of them citizens—in a camp or camps somewhere else in the islands.

During the next six months, with the eventual support of the two top American commanders, Emmons spent a good bit of his time fending off this and other attempts to incarcerate all or most of the Hawaiian Japanese. His reasons were real, as opposed to hypothetical, military necessity. When, on January 10, the War Department, at the specific request of Knox, asked Emmons whether it was practical to move Oahu’s Japanese to some other island, he replied that it would be very dangerous and impractical. He had lots of reasons: it would require a large number of troops to guard them, and he currently had only half the number of troops necessary for current missions; it would require large amounts of construction materials, which were in very short supply; it would cripple the Oahu economy as Japanese provided the bulk of skilled laborers, many of whom worked for the army. They were indispensable and would have to be replaced by equivalent numbers from the mainland. And if, despite all that, it was still considered necessary to move them, Emmons insisted, they must be sent to the mainland. Emmons’s conditions, as he well knew, could not possibly be met until after the war because of manpower and matériel shortages and the lack of shipping space. When Washington planners called for transfer of significant numbers of Japanese—as many as 15,000—Emmons said that his first priority was the shipment to the mainland of 20,000 Caucasian women and children who were a drain on the economy.

Roosevelt was told of the reasons for inaction, but perhaps he did not understand their implications: on February 26 he wrote to Knox, the most ardent advocate of mass incarceration in Hawaii:

Like you, I have long felt that most of the Japanese should be removed from Oahu to one of the other Islands. This involves much planning, much temporary construction and careful supervision of them when they get to the new location.

I do not worry about the constitutional question—first, because of my recent order and, second, because Hawaii is under martial law. The whole matter is one of immediate and present war emergency.
In mid-March, before the forced exile of Issei and Nisei from the West Coast had begun, Assistant Secretary McCloy, the point man in the War Department’s Japanese American policy, made an inspection trip to Hawaii. After learning that military officials in Hawaii were opposed to mass evacuation, he made statements that were printed in Honolulu newspapers—but not revealed to the mainland press—saying that a mass evacuation of Japanese in Hawaii was impractical and not contemplated. Perhaps at McCloy’s suggestion, Emmons informed the War Department as a “present estimate” that there were 1,500 dangerous Japanese aliens and citizens who should be sent to the mainland for some kind of captivity. Knox, with continuing support from the president, continued to push for mass incarceration of the Hawaiian Japanese. Eventually, in a joint memo to the president that seems to exist only in Roosevelt’s papers at Hyde Park, his two top military advisers, General George C. Marshall and Admiral Ernest J. King, told him that decisions about whom to send to the mainland should be left in the hands of the Hawaiian commander, who should be authorized to send up to 15,000 Japanese American citizens, in family groups, to camps on the mainland. In the final analysis, the nonincarceration of the Japanese Americans of Hawaii was governed by a real military necessity rather than a fictive one. Had everything that was generally known in Hawaii been known on the mainland, the whole wartime history of Japanese Americans might have been quite different.

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For the West Coast Japanese Americans the eleven months following Pearl Harbor were an extended waking nightmare as their illusions about their place in wartime American society were inexorably destroyed. On December 6, 1941, they were free persons living largely segregated lives in a free if somewhat restricted society. By mid-November 1942 the communities that had been theirs were being populated by westward-heading internal migrants, and all but a few thousand of them were in some kind of federal confinement, mostly in one of the ten large, jerry-built facilities that their custodian, the WRA, refused to call concentration camps. A few thousand, able and
willing to take advantage of a brief window of opportunity before the army denied them permission to leave, were able to migrate east and lived out the rest of the war in nervous liberty. Except for the fact that two of the WRA camps were in desolate parts of eastern California, a contemporary German might have pronounced the West Coast Japanerfrei, that is, free of Japanese.

During much of December 1941, most of the West Coast Nisei continued to believe that they, as opposed to their parents’ generation, the Issei, who were Japanese nationals and thus “alien enemies,” had little to fear. Some, like the Los Angeles journalist Togo Tanaka (1916–2009), warned about treacherous Issei in a broadcast on the night of Pearl Harbor: “As Americans we now function as counter-espionage. Any act or word prejudicial to the United States committed by any [Japanese] must be warned and reported to the F.B.I., Naval Intelligence, Sheriff’s office, and local police. Any menace to the security of our country must be wiped out.”

Although federal officials initially assured Nisei that they were not targets, the attorney general announced on December 8 that all border crossings were closed “to all persons of Japanese ancestry whether citizen or alien,” and a few handfuls of Nisei were briefly placed in custodial detention but soon released. By early January, Justice Department officials, responding to pressure from their colleagues in the War Department, agreed that “all of the alien enemy premises in a given area can be searched at the same time.” Because most Japanese American households contained members of both generations, being ethnically Japanese had become probable cause. Thus, before the army had taken over, most Japanese Americans had been deprived of the protection of the Fourth Amendment, which provides that the right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons and things to be seized. A teenage Nisei girl from San Jose later described what happened at her house in a letter to a friend written from an Arizona concentration camp:

One day I came home to find two F.B.I. men at our front door. They asked permission to search the house. . . . Trembling with
fright, I followed and watched each of the men look around. . . .
Since I was the only one at home [they] questioned me, but did not produce sufficient evidence of Fifth Columnists in our family. This made me very happy, even if they did mess up the house.

Other searches yielded tangible results, which the searchers and the press sensationalized to produce headlines in both the regional and the national press such as “F.B.I. Finds Ammunition and Other Contraband in Raids on Monterey Bay Japanese” and “Contraband Cameras, Radio Sets Are Seized in First Sweep of the Vallejo District.” Attorney General Biddle explained in a May report to the president that most of the 60,000 rounds of ammunition seized came from the stock of two stores owned by Japanese, and that “We have not found a camera that we have reason to believe was for use in espionage.” But the widely distributed press reports in early 1942 helped to create a climate of opinion that dangerous Japanese must be removed from the putative West Coast “war zone,” which the most respected American newspaper columnist Walter Lippmann insisted was “a battlefield.”

Japanese living in rural areas—both established farmers and agricultural laborers—sometimes suffered from a kind of terrorism all too familiar in much of the American South. Federal officials concerned with farming in California reported to Secretary of Agriculture Claude Wickard in early January that although violence against Japanese farmers was an isolated phenomenon, greatly exaggerated by the press, it was quite clear that the Japanese rural population was “terrified.” “They will not leave their homes at night. . . . The police authorities are probably not sympathetic to the Japanese and are giving them only minimum protection. Investigation of actual attacks have [sic] been merely perfunctory and no prosecutions have been initiated.”

Although a few of the federal agricultural officials in the West showed real concern for their Japanese clients, their mission—the department’s slogan was “Food can win the war”—was to keep them producing and tending their crops even though they might not be there to harvest, market, and profit from their labor. Later, when the forced removal had been announced, military officials threatened to charge any farmers who plowed their crops under or otherwise failed to tend them properly with sabotage.
A very few western state officials did help Japanese American farmers retain their property. Perhaps the outstanding example was Bob Fletcher. In mid-1942 he quit his state job and arranged to manage three vineyards belonging to his Florin, California, Japanese American neighbors, paid the taxes and mortgages, and harvested and marketed the 1942 crop. He did the same in 1943 and 1944, splitting the profits and putting half into the family bank accounts. When the neighbors returned in 1945, they found their property intact and resumed their tenure. Few were that fortunate. Fletcher, aged 101 at his 2013 death, was revered as a community hero.

In urban areas, unemployment of Japanese workers increased as ethnic enterprises collapsed for lack of capital and credit—all bank accounts of “alien enemies” were frozen, as were all accounts in the American branches of Japanese banks—and many Caucasian employers fired Japanese employees. The largest single group of Japanese American public employees in the Pacific Northwest—twenty-three young Nisei women employed as clerks in the Seattle public schools—had civil service status and could not by law be dismissed without cause. The superintendent of schools, under fire from angry parents, appealed for assistance at the end of February from the local Nisei leadership. In an action that epitomizes the mind-set of the all-male Nisei leaders, the women were summoned to a meeting with the superintendent in the office of a male Nisei editor and bullied into agreeing to a mass resignation. School board members later issued a statement commending the clerks’ “high regard for their responsibility as American citizens.”

In California an even more sweeping attempt by the state personnel board to purge the state’s civil service not just of Nisei but also of naturalized American citizens of German and Italian ancestry and their citizen children was voided by state attorney general Earl Warren, himself a child of Scandinavian immigrants, who denounced it as an attempt at “cleansing” and a violation of the American and California constitutions as well as the state’s civil service law. Yet he would testify late in February, with a kind of paranoid logic, in support of the removal of all the state’s Japanese, both alien and citizen:

Unfortunately [many] are of the opinion that because we have had no sabotage and no fifth column activities in this state . . . that
means that none has been planned for us. But . . . this is the most ominous sign in our whole situation. . . . The fifth column activities that we are to get are timed, just like the invasion of France and of Norway. . . . I believe that we are just being lulled into a false sense of security. . . . Our day of reckoning is bound to come.

By mid-February the man sent to represent the Justice Department on the West Coast, Tom C. Clark (1899–1977), with a concurrent appointment as coordinator of alien enemy control in the Western Defense Command (WDC) under Lieutenant General John L. DeWitt, was taking positions identical with those of the military. In Clark’s oral history for the Truman Library in 1972–1973, he paints himself as opposed to moving citizens, but in mid-February 1942 he briefed reporters in both California and Washington about some of the various plans to move large numbers of Japanese aliens and citizens out of strategic areas that he was recommending.

By the time the president’s executive order had been signed and publicized, the combination of increasing federal legal restrictions, punitive actions by state and local governments, and increasing discrimination by private bodies and individuals had largely demoralized many if not most of the adult Nisei. Leaders of the Japanese American Citizens League (JACL), a Nisei organization that would not admit aliens and claimed a membership of 20,000 in sixty chapters in 300 communities, immediately announced that it was instructing its members “to continue cooperating with our government in whatever action it may deem necessary,” but they went on to say that it “is difficult to conceive that our government . . . would break down the equality that has always existed between its citizens and discriminate against one bloc of them.”

By the end of February, JACL leaders, including its president Saburo Kido (1902–1977), an attorney, Mike Masaoka (1915–1991), its executive secretary, and Fred Tayama (b. 1905), one of its Los Angeles officials, after being summoned to get instructions from army and Justice Department officials, told the well-informed West Coast correspondent for the New York Times that all should be treated equally and that in the best interests of both the nation and the citizen Japanese, they should be sent to what would be “practically concentration camps,” where they would be protected by the army and fed by
the government. They also suggested that there be a moratorium for “the duration” on their mortgages and long-term leases. They got the camps but not the moratoria or other financial easements.

Between February 21 and March 7, a House select committee—the so-called Tolan Committee, which had been established in 1941 to investigate “national defense migration”—held hearings in major West Coast cities on the “Evacuation of Enemy Aliens and Others” from military areas. All but two of the fifteen Japanese American witnesses repeated the JACL line, essentially, “We are loyal so we will cooperate and not protest this injustice.” In Portland, JACL national treasurer Hito Okada (1907–1984), perhaps thinking of the founding fathers, said, “We are willing to sacrifice our homes, our money, and our lives” to help win the war.

JACL president Kido, speaking to reporters prior to a closed three-day meeting in San Francisco on March 8, said that evacuating American-born Japanese was a “travesty on our good name and rights,” but that he and his organization representing 80,000 (!) citizens of Japanese ancestry all over the country were determined to cooperate with whatever the government told them to do. Reporters learned that proposals at the conference to form a united front with other Japanese groups were rejected because the JACL “represented most of the Japanese anyway [and that the organization] should play a lone hand.”

General DeWitt, whose WDC, including Alaska, had been designated a theater of operations four days after the attacks on Pearl Harbor, had asserted in an early February telephone conversation with War Department officials: “I haven’t gone into details of it, but Hell, it would be no job as far as the evacuation was concerned to move 100,000 people.”

But when, under the provisions of EO 9066, war secretary Stimson redelegated presidential authority to General DeWitt on February 20, the often befuddled West Coast commander discovered that the real problem was not how to “move 100,000 people” but where to put them and how to house, feed, and provide for public health, sanitation, and even recreation and education for what were largely American citizens, none of whom was charged with any crime.

Although the general and his staff were not at all clear as to what they were going to order, his headquarters began to issue proclama-
Map showing Western Defense Command zones and all Japanese American incarceration sites. The assembly centers were administered by the US Army; the relocation centers and the citizen isolation camps by the War Relocation Authority; and the Justice Department camps by the Immigration and Naturalization Service. All but the INS-run sites were concentration camps established outside of normal US law. Source: Commission on Wartime Relocation and Internment of Civilians, *Personal Justice Denied* (Washington, DC, 1983), reprinted from Michi Weglyn, *Years of Infamy* (1976).
tions on March 2, ten days after he had been granted extraordinary powers over the civilian population of the West Coast: all were entered in the *Federal Register*. Proclamation 1 of that date, over General DeWitt’s signature, was directed at “any Japanese, German, or Italian alien, or any person of Japanese Ancestry,” making it clear that, for the government, the distinctions between alien and citizen were no longer significant as far as those of Japanese ancestry were concerned. It also divided the states of Arizona, California, Oregon, and Washington into two “military areas.” The map on page 21 shows the zones established by General DeWitt, as well as the various sites in which Japanese Americans were imprisoned throughout the United States between 1942 and 1946. Military Area No. 1 was divided into two zones: a “prohibited” coastal and Mexican border zone about a hundred miles deep, which took in most major cities, including San Diego, Los Angeles, San Francisco, Portland, and Seattle; and a restricted zone so configured that it included almost all of the places where significant numbers of Japanese resided. It amounted to roughly two-thirds of Washington, more than half of California, two-fifths of Oregon, and a third of Arizona. The remainder of those states constituted Military Area No. 2. The order stated that “designation of Military Area No. 2 as such does not contemplate any prohibition or regulation or restriction except with respect to the zones [around specific military or other sensitive facilities] established therein.” It also required regulated persons living in Military Area No. 1 to file a change of address with their local post office before moving. Enemy aliens needed permission from the DoJ to move, but citizens retained the right to travel. Most found it difficult to exercise that right.

Most Japanese Americans simply did not have the assets necessary for a move; much of their money was in bank accounts blocked by the government. Those traveling by train met no special barriers, but those who chose to load a car or truck with family and possessions and head east encountered a variety of difficulties. Even within their own states many filling stations refused to sell them gas. If they crossed a border, that state’s police often turned them back or otherwise discouraged their further progress. Many of the relatively few who started returned, and their experience discouraged others.
Seattle JACLers reported to the Tolan Committee that while DeWitt’s proclamation left Japanese free to leave Military Area No. 1, “this was no solution . . . for immediately from Yakima, Idaho, Montana, Colorado and elsewhere authoritative voices shouted: ‘No Japs Wanted Here!’ The Japanese feared with reason that . . . they would be kicked from town to town in the interior like the ‘Okies’ of John Steinbeck’s novel.”

On March 10 a General Staff officer back from a West Coast inspection trip reported on his return to army headquarters that “there was no definite organization for handling . . . the evacuation of enemy aliens.” The following day, perhaps in response to this criticism, DeWitt signed an order creating the Wartime Civil Control Administration (WCCA). The order regulated the initial incarceration sites in the West Coast states “to provide for the evacuation of all persons of Japanese ancestry from Military Area No. 1 and the California portion of Military Area No. 2 . . . with a minimum of economic and social dislocation, a minimum use of military personnel and maximum speed; and initially to employ all appropriate means to encourage voluntary migration.”

This secret order demonstrates the duplicity with which the military leadership treated some of its citizens; for weeks after this policy document was signed, DeWitt’s headquarters continued to urge Japanese Americans to move into California’s Military Area No. 2. The WCCA, housed in a downtown San Francisco hotel commandeered by the army, was largely staffed by civilians borrowed from a wide variety of federal organizations, including most significantly the Census Bureau and the Department of Agriculture. (The president had directed “all Executive Departments, independent establishments and other Federal Agencies, to assist the Secretary of War or the said Military Commanders in carrying out” EO 9066.) To head the WCCA, DeWitt chose Colonel Karl R. Bendetsen, one of the group of military bureaucrats in the War Department who had originally pushed for mass incarceration of Japanese Americans regardless of citizenship.

On March 18 President Roosevelt issued EO 9102, drafted in the White House, creating the WRA (1942–1946), whose director re-
ported directly to the president and was instructed to design “a pro-
gram for the removal, from the areas designated from time to time
by the Secretary of War or appropriate military commander under
the authority of Executive Order 9066 of February 19, 1942, of the
persons or classes of persons designated under such Executive Order,
and for their relocation, maintenance, and supervision.”

To head the new agency, which reported directly to him, Roos-
evelt named Milton S. Eisenhower, a civil servant who had joined
the Department of Agriculture in 1928 managing its public relations
and serving as Secretary Henry Wallace’s liaison officer to Roosevelt’s
White House, and much better known in 1942 Washington than his
older brother Dwight, then a brigadier general on General Marshall’s
staff. Milton, disillusioned after it became clear to him that General
DeWitt’s man Bendetsen could block his less restrictive plans for the
exiled Japanese Americans, submitted his resignation. Told to find a
replacement, he recruited a colleague in the Agriculture Department,
Dillon S. Myer, an administrator overseeing soil conservation. Myer
remembered, years later, that after “a couple of hours” of discussion,
“I said to Milton ‘Do you think I should take this job?’ He said ‘Dil-
lon, if you can sleep and still carry on the job my answer would be
yes. I can’t sleep and do this job. I had to get out of it.’ So I told him
that I would take on the job.”

Myer took over in mid-June 1942 and ran the agency until it was
dissolved in 1946. This new civilian agency would take over from
the military as soon as appropriate facilities could be constructed
and the inmates assigned to it delivered. Although Bendetsen and
his immediate superiors in the military originally planned to keep
the imprisoned Japanese under military control, after Chief of Staff
Marshall learned what they and Stimson and McCloy were planning,
he insisted that a bare minimum of military manpower be utilized.

One final legal step was necessary. The military planners under-
stood that there were likely to be court challenges to their program,
and realized, in late February, that there was nothing on the statute
books providing penalties for a civilian who disobeyed a military or-
der unless martial law had been declared. A statute, drafted in the
War Department, making such disobedience a misdemeanor, pun-
ishable by imprisonment of not more than a year or a $5,000 fine, or
both, upon conviction, was sent to Congress on March 9 and passed
both houses without a dissenting vote on March 19; two days later the president made it Public Law 503.

There was a lone dissenting voice, however. Senator Robert A. Taft (R-OH) complained in the Senate that it was “the sloppiest criminal law I have ever read or seen anywhere . . . the Senate should not pass it.” But because he understood “the pressing character of this kind of legislation,” he did not make the formal objection that would have delayed approval.

While the congressional process was going on, DeWitt issued Public Proclamation 2 on March 16, which established Military Areas Nos. 3 through 6 covering the states of Nevada, Utah, Idaho, and Montana. This proclamation had, in the event, little significance except as an indication of the general’s ambition to spread restrictions throughout the WDC. Once Public Law 503 was on the books, DeWitt was free to issue orders with teeth, orders that immediately affected people’s lives. On March 24 he issued Public Proclamation 3, which ordered that in three days’ time “all alien Japanese, all alien Germans, all alien Italians, and all persons of Japanese ancestry” living in “Military Area No. 1 . . . shall be within their place of residence between the hours of 8:00 p.m. and 6:00 a.m., which period is hereinafter referred to as the hours of curfew.” In addition, “All such persons shall be only at their place of residence or employment or traveling between those places or within a distance of not more than five miles from their place of residence.”

The day the curfew went into effect, March 27, DeWitt issued Proclamation 4 ordering that at midnight, March 29, “all alien Japanese and persons of Japanese ancestry, who are within the limits of Military Area No. 1 [where the vast majority of Japanese Americans lived] be and they are hereby prohibited from leaving that area for any purpose until and to the extent that a future proclamation or order of this headquarters shall so permit or direct.”

Japanese Americans present in Military Area No. 2, almost 5,000 of whom had registered their intention to move there from Zone 1 after March 12, could believe for five days that they had escaped the fate of their fellows in Zone 1. General DeWitt’s Public Proclamation 6, issued on June 2, and effective at noon that day, froze those in the large California portion of Zone 2 in language identical to that of the Zone 1 proclamation. Those living in the Arizona, Oregon, and
Washington areas of Zone 2 were not mentioned. They were never frozen and, if citizens, were free to move anywhere in the nation except the excluded zones.

None of the various WDC directives discussed so far forced any citizens to move. Independently the US Navy had evicted the roughly 500 families of Japanese, mostly involved in deep-sea fishing, from Terminal Island, San Pedro, part of the Port of Los Angeles. Like the army, it was inconsistent. On February 14 the navy posted notices that all Japanese must be off the Island by March 14; but, without warning, it put up new notices on the afternoon of February 25 saying that all Japanese must be gone by midnight February 27. It did not care where they went and made no offers of moving assistance.

The first persons to enter army custody in what it called an “assembly center” were actually 1,000 volunteers, organized by the JACL in Los Angeles, who made the 230-mile trip to Manzanar in their own motor vehicles with army and police escorts and by special train on March 21–23 and were described as the “vanguard of 112,000” who would be forced to leave their homes. An Associated Press photo of the train and some of its passengers leaving Los Angeles was captioned “Concentration Camp Special.”

But what would become the regular process of rounding up the future inmates was tested at the other end of DeWitt’s zone on tiny Bainbridge Island, in Puget Sound facing Seattle. On March 24 the WCCA placarded the island with Civilian Exclusion Order 1 ordering that “all persons of Japanese ancestry, both alien and nonalien [], be excluded from Bainbridge Island” by March 30. It established a Civil Control Center “at or near the ferryboat landing,” and specified that a “responsible member of each family . . . will report to the Civil Control Office . . . between 8 a.m. and 5 p.m. on . . . March 25” to register all family members and be assigned a family number. Everyone was ordered to report to the ferryboat landing on March 30, where armed soldiers waited to escort them on the ferry to Seattle and on the train that took the 257 Bainbridge Islanders—the WCCA had anticipated 225—to the Manzanar camp deep in California, where they arrived on April 1. The process was repeated 106 times as the WCCA statistical section headed by Calvert L. Dedrick, a ranking Census Bureau official on long-term loan to the army who be-
came a key member of Colonel Bendetsen’s staff, divided California and the Zone into parts of Arizona, Oregon, and Washington into 106 districts, which held, on average, about a thousand Japanese each. Eventually the WDC processed more than 92,000 persons through its assembly centers and by mid-November had passed almost all of them on to the WRA. That story has often been told, and, important as the incarceration story is, it is not germane here. Instead, we will return to the Nisei litigants and their causes.