

STATEMENT OF FATHER ROBERT F. DRINAN ON
BEHALF OF THE COMMISSION ON WARTIME
RELOCATION AND INTERNMENT OF CIVILIANS

From 1981 to 1983 I served as a member of the Commission on Wartime Relocation and Internment of Civilians. It gives me great pleasure to appear before the Subcommittee on Administrative Law and Government Relations of the Committee on the Judiciary this morning to provide a statement as to the findings of the Commission on Wartime Relocation and the recommendations for remedies which the Commission has made to Congress. I will particularly emphasize the remedies which the Commission recommended.

The Commission was established by Congress in 1980 and directed to

1. review the facts and circumstances surrounding Executive Order Number 9066, issued February 19, 1942, and the impact of such Executive Order on American citizens and permanent resident aliens;
2. review directives of United States military forces requiring the relocation and, in some cases, detention in internment camps of American citizens, including Aleut civilians, and permanent resident aliens of the Aleutian and Pribilof Islands; and
3. recommend appropriate remedies.

In fulfilling that mandate, the Commission issued an historical analysis of the promulgation of Executive Order 9066 and the events that flowed from the Order, Personal Justice Denied, which was released in February, 1983.

In June of 1983, the Commission issued its recommendations for remedies.

The basic facts about the wartime treatment of Japanese Americans are undisputed. On February 19, 1942, President Franklin D. Roosevelt signed Executive Order 9066. Under that Order 120,000 people -- American citizens of Japanese ancestry and resident aliens of the immigrant generation from Japan, who were barred by law from becoming American citizens -- were prohibited from living and working on the West Coast. Almost all were later sent to "relocation centers" -- bleak barrack camps ringed by barbed wire and military guards in isolated areas of the West. Most remained in the camps until the mass exclusion was ended in December, 1944, more than two and a half years after the policy of exclusion and detention began. These events are unique in our history.

No program of mass exclusion or detention was imposed on German or Italian aliens nor upon American citizens of German or Italian descent.

In simple terms, 120,000 people lost the right to live where they chose and the large majority were held in detention for more than two years without charges being brought against them.

Of course, that is not the way in which the American government has historically behaved. The government is not free to lock up citizens or expel them from extensive areas

of the country without bringing and proving some charge against them.

It is not surprising that the exclusion and detention were opposed at the time by men like Attorney General Francis Biddle, who had a strong sense of the fundamental importance of liberty and due process in the United States.

The exclusion of people of Japanese descent, both residents and citizens of the United States, from the West Coast took place at a time of high emotional tension and genuine popular fear of attack which followed the disaster at Pearl Harbor. The government justified the exclusion from the West Coast on the basis of military necessity. The first task of the Commission was, therefore, to look at the facts and consider whether military necessity justified this course of action.

The Commission found that the record does not permit the conclusion that there was military justification for the mass exclusion and detention of American citizens of Japanese ancestry and their resident alien parents.

There was a widespread -- but false -- belief that the attack on Pearl Harbor had been aided by sabotage and fifth column activities. The President and his cabinet officers did not forcefully dispel these stories and rumors. On the West Coast, where there had been a long history of prejudice and discrimination against the ethnic Japanese, there were sustained and ever louder demands for the

exclusion of Japanese Americans. These demands were made by organized anti-Japanese interest groups, the press and the West Coast members of Congress -- they came from every segment of the political spectrum.

The civilian clamor for exclusion was reflected in the actions of the War Department. Lieutenant General John L. DeWitt, in command of Army forces on the West Coast, recommended to the Secretary of War, Henry L. Stimson, that authority be sought to remove the Japanese Americans from the West Coast. DeWitt made his recommendation on the ground that loyalty was determined by ethnicity. "In the war in which we are now engaged," DeWitt wrote Secretary Stimson, "racial affinities are not severed by migration. The Japanese race is an enemy race and while many second and third generation Japanese born on United States soil possessed of United States citizenship, have become 'Americanized,' the racial strains are undiluted." The record shows that DeWitt's position was substantially influenced by the governors and public officials of the West Coast states whose views he sought before developing his own position.

Secretary Stimson and President Roosevelt did not subject this program to sufficiently close and critical scrutiny. The Attorney General, Francis Biddle, did not believe the program necessary, but acceded to it when it was advocated by the War Department as an essential military measure.

Few Americans were familiar with American citizens of Japanese descent. The opinions of those with intelligence responsibility, such as the FBI, who believed that there was no sound basis for mass exclusion, were ignored or drowned out in the frightened uproar of the time. Those working in intelligence assumed that Japan had made an effort to obtain intelligence from both ethnic Japanese and other Americans. That was not surprising and was undoubtedly the course followed by Germany and Italy as well. For instance, a 26-page analysis of Japanese intelligence and propaganda in the United States, produced by the Office of Naval Intelligence three days before Pearl Harbor, the authors of which clearly had access to the "Magic" cables in some form, summed up the beliefs of those with wide knowledge of intelligence sources in its final two sentences: "Current U.S.-Japanese relations are not clearly defined. However, in anticipation of a possible crisis, the FBI is prepared to take into custody and detain all persons whose activities are inimical to the best interests of the United States." Such views did not provide a justification for mass exclusion and detention.

The Commission carefully reviewed the extensive record of events which led to Executive Order 9066. It found no persuasive evidence of a military or security threat from the Japanese Americans which could remotely justify mass exclusion and detention. As General DeWitt conceded at the time, no sabotage had taken place. The later justifications

offered by DeWitt in his Final Report on the exclusion and by the Justice Department which defended the exclusion in court also fail to demonstrate any military or security threat.

DeWitt's contention that ethnicity determined loyalty was answered as early as May, 1942, by a Congressional committee which examined the impact of the Executive Order in extensive hearings on the West Coast:

This testimony has impressed upon us in convincing fashion the fundamental fact that place of birth and technical non-citizenship alone provide no decisive criteria for assessing the alinement of loyalties in this worldwide conflict.

True of aliens, that statement can only be more powerful with regard to American citizens. Our legal system is founded on determining guilt or fault on an individual basis, and citizens must be given the presumption of loyalty. Moreover, the conclusion that ethnicity determined loyalty was not a military judgment deserving of any deference. Generals are not experts on race; their views on the political loyalties of civilians are only as good as the facts they can marshal in their support. As John J. McCloy, who was Assistant Secretary of War in 1942, testified to the Commission, the decision to issue the Executive Order was not based on any actual events of sabotage or espionage known to the War Department. The lack of evidence of disloyalty on the part of Americans of Japanese ancestry in 1942 speaks for itself.