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Op-16-8-7

14 November 1944

**MEMORANDUM for Captain Ferry.**

**Subject: Program for Return of Japanese to the Pacific Coast.**

1. Present at the meeting called by the Attorney General in his office at 1500 Monday, 13 November 1944, were: Attorney General Francis Biddle, Solicitor General Charles Fahy, Assistant Solicitor General Oscar S. Cox, E. J. Ennis, Mr. Wexler, Department of Justice; Under Secretary Abe Fortas and Mr. Dillon Myer, Interior Department; Assistant Secretary of War John J. McCloy, Brigadier General Wilber, Chief of Staff, Western Defense Command and group of Army officers, War Department and Captain J. P. Compton, USN, Captain H. O. Larsen, USN, Captain W. S. Wharton, USNR and Lieut. Comdr. F. Welden, USNR.

2. The Attorney General stated that the problem of returning Japanese to the Pacific Coast areas was discussed at some length at the Cabinet meeting earlier in the day and that the President had expressed a desire to have the return made as quickly as possible to avoid complications arising from the Supreme Court decisions in the Endo Case and other cases involving American citizens of Japanese descent who have appealed against the exclusion procedure in its various phases. Mr. Biddle explained that he had advised the President that he felt certain that the Court would rule against the Government and that the whole control would be thrown overboard unless something were done prior to handing down the actual decision so that the rights of American citizens could be protected and at the same time some control in sensitive areas be retained by the military branch. He said it was the consensus of the Cabinet that the matter should be pushed to the utmost and that the most effective procedure would be to have the Secretary of War write a letter to the President stating that the Military necessity for general and mass exclusion no longer existed. This was decided, Mr. Biddle said, because the original exclusion order had been issued by the Commanding General of the Western Defense Command on his own authority under Exclusion Order No. 9066. He also said he felt the public reaction on the west coast would be less violent and more favorable if the Military assumed the initiative in modifying and revoking the mass exclusion order.

3. In the utmost confidence Mr. Biddle said that he had conferred with Chief Justice who advised him that a decision would have to be rendered soon and that the Chief Justice felt the Court had no

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alternative but to uphold the right of American citizens, especially in the Ende case. Mr. Biddle said that the Chief Justice also advised that the Court could delay a decision a reasonable time and that it would be very helpful if the order for mass exclusion was materially modified.

4. Mr. Biddle said that the main problem would be retention of American citizens of Japanese ancestry who were regarded as dangerous by the Military Authority and whose movements should be restricted as individuals after the mass exclusion order had been amended. He said that despite the Justice Department principle that American citizens cannot be held without due process of law, that the Department was willing to recognize and assume responsibility for retention of those few that the Military Authority deem dangerous.

5. Mr. Abe Fortas said that the problem from the standpoint of the War Relocation Authority was a difficult one because it would require extensive work in liquidation preparation of the American-Japanese to be released for release, the actual release and aid in relocation. He said it was his definite understanding that the release would be effected without further processing of those to be released by any of the military or intelligence agencies. He said that this he believed was within the realm of adequate security in that most of those that could be released had already been processed at least once and some of them many times by the military and intelligence agencies.

6. Brigadier General Wilber said that inasmuch as the military had the responsibility they must also exercise the authority in designating those to be retained in detention centers. He said the program prepared by the Commanding General of the Western Defense Command contemplated the following:

- (a) Modification of the restricted areas to include general restriction only in a strip approximately one county deep along the coast and in particular sensitive areas where vital Military, Naval or War production facilities were located.
- (b) Detention in centers of Japanese aliens and Japanese-American citizens of Japanese descent who were regarded as dangerous either because of confirmed past record or their own expressed desire to renounce American citizenship in favor of Japanese nationality.
- (c) Restricted movement for another group of Japanese who have suspicious backgrounds and have not been thoroughly cleared. This group will not be allowed in the areas designated for exclusion.

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- (d) Japanese who will be released completely and will be allowed to go anywhere except, of course, in very sensitive areas under Military or Naval command.

7. General Wilber said that it was estimated that categories (b) and (c) would comprise between four and five thousand persons. He said that it was hoped that the Western Defense Command would be able to have its lists segregated as indicated above and ready for action by 10 December. He said he thought it desirable to have no public announcement made prior to the time the lists were actually ready for general release. He also said that while there would undoubtedly be some unpleasant instances resulting from the release, he felt proper publicity in handling of the general situation would reduce them to a minimum and prevent any violent anti-racial activities in the west coast areas which he said were very sensitive on this issue.

8. Mr. Dillon Myer, Director of WRA, expressed doubt of the Army's ability to have the list ready at the specified time. He requested that his agency be provided with the list as soon as possible so as to permit administrative action of the WRA to be synchronized with the general release movement. He said that he too felt it very important for the proper publicity build-up to prevent incidents which would endanger those released. He said he felt that the WRA knew who the troublemakers among the western states would be and that they could be kept under control. He also advocated extensive publicity about the services of American citizens of Japanese descent in the Army.

9. Mr. McCloy suggested that a public relations man be designated to take charge of the whole program. He said the Army had a problem of balanced publicity for its various units and that already several American Army units had protested the extensive publicity given to Japanese in the service, stating that the loss and service of the Americans was equal or greater than that of the Japanese units picket out for the publicity build-up.

10. General Wilber said that the Western Defense Command had the material and information about the Japanese in its possession and did not need the services of other agencies to any great degree. He said they were prepared to proceed with the sorting on the basis of their own information and assume responsibility for it. Mr. Biddle said the general program would be considered for definite approval but that in the meantime it would be appreciated if Army and WRA would proceed as indicated above.

11. Mr. Biddle requested that the program and discussion be very closely held, inasmuch as premature publicity would result in a reaction on the west coast which might wreck the whole plan and embarrass the President.

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12. The attitude taken by the Navy representatives was that the exclusion or readmission of Japanese was the responsibility of the Army and that Navy should protect itself by depending on the Commanding Generals of the various Defense Commands to designate areas of sensitivity from which persons would be excluded and to advise Naval Authority of the presence of dangerous Japanese.

13. It is suggested that this memorandum be called to the attention of the Director.

Respectfully,

Wallace S. Wharton.

cc: Captain Compton  
Captain Larson

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