

Handout A: Student Document Packet Part 1

Prompt:

How did wartime experiences lead to challenges to the civil liberties Japanese Americans?

Overview:

Japan's surprise attack on Pearl Harbor, Hawaii, on December 7, 1941, shook many Americans' sense of security and raised fears, complicated by racism, of an impending invasion of the West Coast. In addition, fears regarding the loyalty of the more than 140,000 Americans of Japanese descent living in that region led General John DeWitt of the Western Defense Command and others to urge President Franklin Roosevelt to remove those Japanese Americans from their homes as a military necessity to reduce the possibility of espionage or sabotage. On February 19, 1942, Roosevelt signed Executive Order 9066, and Congress quickly enacted legislation supporting the president's orders. Thus, two branches of the federal government set in motion the process that would result in the mass relocation that April of more than 120,000 people from their homes in coastal Washington, Oregon, and California to 26 detention camps in remote inland locations. This DBQ asks you to consider the constitutional principles at issue in this wartime action.

Documents:

Document 1: Constitutional Provisions

Document 2: Franklin D. Roosevelt's Infamy Speech, December 8, 1941

Document 3: Executive Order 9066, February 19, 1942 (Excerpt)

Document 4: Instructions to Japanese, April 1, 1942

Document 5: Memorandum, Biddle to FDR, December 30, 1943 (Excerpt)

Document 6: *Korematsu v. United States* (1944) Majority Opinion Excerpt, Justice Hugo Black

Document 7: *Korematsu v. United States* (1944), Dissenting Opinion Excerpts

Document 8: Duty of Absolute Candor: Katyal Blog Post Excerpt, May 20, 2011

Part I: Exploration: Document Analysis

Document 1: Constitutional Provisions

Introduction:

Wartime restrictions on constitutionally protected rights span the timeline of U.S. history. In 1798, when it appeared that war with France was likely, Congress enacted the Alien and Sedition Acts restricting freedom of speech and of the press. During the Civil War, the president and Congress acted to suspend the privilege of the writ of habeas corpus. In *Schenck v. United States* (1919), the Supreme Court upheld restrictions on expression, ruling, “When a nation is at war, many things that might be said in time of peace are such a hindrance to its effort that their utterance will not be endured so long as men fight, and that no Court could regard them as protected by any constitutional right.” After Japan’s surprise attack on Pearl Harbor in 1941, questions about the constitutional protection of civil liberties during wartime became personal for Japanese Americans living along the coasts of Washington, Oregon, and California.

Source 1:

<https://billofrightsinstitute.org/founding-documents/constitution/>

The United States Constitution (1789), Article I, Section 9
The privilege of the writ of habeas corpus shall not be suspended, unless when in cases of rebellion or invasion the public safety may require it.

Source 2:

<https://billofrightsinstitute.org/founding-documents/bill-of-rights/>

The Fifth Amendment (1791)
No person shall . . . be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.

Questions

1. What guarantees of personal liberties are contained in these passages?

2. What must government provide when it deprives someone of these liberties?

Document 2: Franklin D. Roosevelt's Infamy Speech, December 8, 1941

Source:

<http://historymatters.gmu.edu/d/5166/>

Introduction:

On the day after Japan attacked the U.S. military fleet at Pearl Harbor, Hawaii, President Franklin D. Roosevelt solemnly addressed Congress in response to the threat against the national security of the United States.

Text
Yesterday, December 7, 1941—a date which will live in infamy—the United States of America was suddenly and deliberately attacked by naval and air forces of the Empire of Japan. . . .
It will be recorded that the distance of Hawaii from Japan makes it obvious that the attack was deliberately planned many days or even weeks ago. During the intervening time the Japanese government has deliberately sought to deceive the United States by false statements and expressions of hope for continued peace. . . .
As commander in chief of the Army and Navy, I have directed that all measures be taken for our defense. . . .
I believe that I interpret the will of the Congress and of the people when I assert that we will not only defend ourselves to the uttermost, but will make it very certain that this form of treachery shall never again endanger us.
Hostilities exist. There is no blinking at the fact that our people, our territory, and our interests are in grave danger. . . .
I ask that the Congress declare that since the unprovoked and dastardly attack by Japan on Sunday, December 7th, a state of war has existed between the United States and the Japanese Empire.

Questions

1. What is infamy?
2. Note the descriptive terms that President Roosevelt used in this speech. What is the overall effect of this speech?
3. Why did the president maintain that a state of war “has [already] existed”?
4. According to the Constitution, which branch of government has the power to declare war?

Document 3: Executive Order 9066, February 19, 1942 (Excerpt)

Source:

https://en.wikipedia.org/wiki/Executive_Order_9066

Introduction:

Fear and uncertainty swept the nation in the days and weeks after the U.S. declaration of war against Japan. If they could successfully carry out a devastating surprise attack against Hawaii, what was the likely next step for the Japanese military? Were Japanese submarines preparing to mass off the western U.S. coast? Was a network of spies ready to assist Japan in an invasion of the U.S.? How likely was espionage and sabotage by Americans with divided loyalties? The surprise attack on Pearl Harbor and the fear it engendered were very real. How real was the threat of espionage? General John DeWitt and other military leaders advised President Roosevelt to take immediate precautions to reduce any possible threat from Japanese Americans along the west coast.

Text
The Secretary of War, and the Military Commanders whom he may from time to time designate, whenever he or any designated Commander deems such actions necessary or desirable, [is authorized] 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.

Questions:

1. What does this executive order authorize the secretary of war and his military commanders to do?

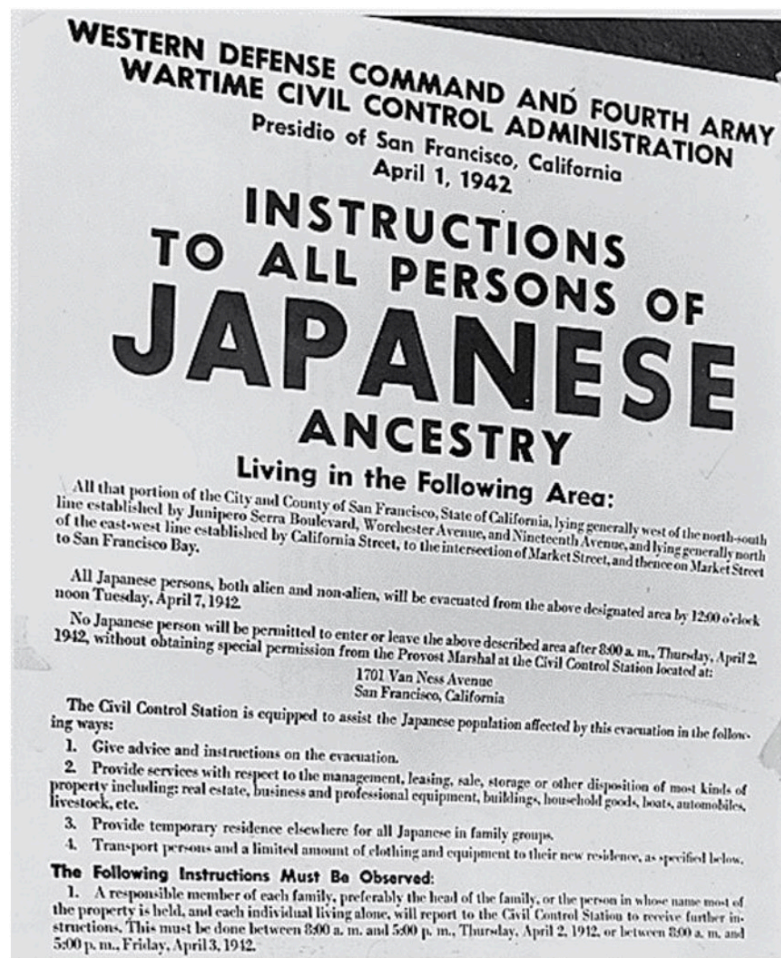
Document 4: Instructions to Japanese, April 1, 1942

Source:

https://en.wikipedia.org/wiki/Executive_Order_9066#/media/File:Instructions_to_japanese.png

Introduction:

In 1941, 22-year-old Fred Korematsu lived in Oakland, California, and worked in his parents' floral nursery business. After the United States entered the war, he tried to enlist in the U.S. Coast Guard and the U.S. National Guard, but he was rejected. Still wanting to support the country's war effort, he got a welding job in the defense industry. At the time of the relocation order, he was engaged to an Italian American woman and did not want to leave her or his job. However, after being fired because of his Japanese ancestry, he moved to a neighboring town, had cosmetic surgery to alter the appearance of his eyes, and changed his name to Clyde Sarah. He claimed to be of Spanish and Hawaiian descent. In May 1942, he was arrested for violating Exclusion Order 34 of the U.S. Army, which had required him to report to a civil control station. He was convicted, sentenced to five years in prison, paroled, and sent to the Topaz, Utah, internment camp. Korematsu challenged the wartime provisions, maintaining that through the exclusion and internment process, the president and Congress had exceeded their constitutional war powers.



National Archives and Records Administration
(Records of the War Relocation Authority, 1941–
1989. ARC identifier: 537).

Transcript (excerpt):

<http://www.sfmuseum.org/hist9/evacorder.html>

Text
WESTERN DEFENSE COMMAND AND FOURTH ARMY WARTIME CIVIL CONTROL ADMINISTRATION
Presidio of San Francisco, California April 1, 1942
INSTRUCTIONS TO ALL PERSONS OF JAPANESE ANCESTRY
Living in the Following Area:
All that portion of the City and County of San Francisco, . . . lying generally [on or near the coast] . . .
All Japanese persons, both alien and non-alien, will be evacuated from the above designated area by 12:00 o'clock noon Tuesday, April 7, 1942.
No Japanese person will be permitted to enter or leave the above described area after 8:00 a.m., Thursday, April 2, 1942, without obtaining special permission from the Provost Marshal at the Civil Control Station located at:
1701 Van Ness Avenue San Francisco, California
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 including real estate, business and professional equipment, buildings, household goods, boats, automobiles, livestock, etc.
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, as specified below.
The Following Instructions Must Be Observed:
1. A responsible member of each family . . . and each individual living alone, will report to the Civil Control Station to receive further instructions. . . .
2. Evacuees must carry with them on departure for the Reception 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 . . .
The size and number of packages is limited to that which can be carried by the individual or family group. . . .
3. 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 if crated, packed and plainly marked with the name and address of the owner. . . .
4. Each family, and individual living alone, will be furnished transportation to the Reception Center. Private means of transportation will not be utilized. All instructions pertaining to the movement will be obtained at the Civil Control Station.
Go to the Civil Control Station at 1701 Van Ness Avenue, San Francisco, California, between 8:00 a.m. and 5:00 p.m., Thursday, April 2, 1942, or between 8:00 a.m. and 5:00 p.m., Friday, April 3, 1942, to receive further instructions.
J. L. DeWITT Lieutenant General, U. S. Army Commanding

Questions:

1. To whom are these instructions directed? On what date was the announcement posted?
2. What are they instructed to do?
3. What assistance is promised to them?
4. What part(s) of these instructions would be most frightening or difficult for you? Why? To what extent would you trust the Wartime Civil Control Administration to safeguard any property left behind in their care?

Document 5: Memorandum, Biddle to FDR, December 30, 1943 (Excerpt)

Source:

<https://www.archives.gov/files/research/japanese-americans/justice-denied/chapter-8.pdf>

Introduction:

Francis Biddle was President Franklin Roosevelt's attorney general, who, from the beginning of the war, opposed the wholesale relocation of Japanese Americans. During the early weeks of meetings between War Department and Justice Department officials, Biddle insisted "the present military situation does not at this time require the removal of U.S. citizens of the Japanese race" and "that appropriate steps have been and are being taken." However, the pressure from military leaders, West Coast politicians, and journalists had convinced Roosevelt by mid-February 1942 that all Japanese Americans along the western coast must be relocated to inland internment camps. Still, Biddle continued to express his concerns regarding the confinement of thousands of U.S. citizens who had not been accused or even suspected of disloyalty.

Text

Attorney General Francis Biddle, Letter to President Roosevelt: . . .

The important thing is to secure the reabsorption of about 95,000 Japanese, of whom two-thirds are citizens and who give every indication of being loyal to the United States, into normal American life. The present practice of keeping loyal American citizens in concentration camps on the basis of race for longer than is absolutely necessary is dangerous and repugnant to the principles of our Government. It is also necessary to act now so that the agitation against these citizens does not continue after the war.

Questions

1. What practice did Biddle describe as "dangerous and repugnant to the principles of our government"?
2. To what principles do you think he was referring in this warning?
3. Why did he write that it was important to act immediately "to secure the reabsorption [of loyal Japanese people] into normal American life"?