Questions

1. Why does Du Bois believe that the situation of American blacks was as "critical" in the 1930s as at any previous point in the nation's past?

2. Why does he feel that economic "self-segregation" offers a more viable strategy for blacks than continued pressure for racial integration?

CHAPTER 22

Fighting for the Four Freedoms: World War II, 1941–1945

143. Franklin D. Roosevelt on the Four Freedoms (1941)

Source: Annual Message to Congress, January 6, 1941, in Samuel I. Rosenman, ed., **The Public Papers and Addresses of Franklin Delano Roosevelt** *(New York, 1938–1950), Vol. 9, p. 672.*

As in other American wars, freedom became a rallying cry and language of national unity during World War II. Even before the United States entered the war President Roosevelt outlined to Congress his vision of a future world order founded on the "essential human freedoms": freedom of speech, freedom of worship, freedom from want, and freedom from fear. The Four Freedoms became Roosevelt's favorite statement of Allied aims. Freedom from fear meant not only a longing for peace but a more general desire for security in a world that appeared to be out of control. Freedom of speech and religion scarcely required detailed explanation. Freedom from want was the most controversial of the four. To FDR, it meant economic security; to his critics, the phrase conjured up images of socialism or of Americans living off the largesse of the government.

IN THE FUTURE days, which we seek to make secure, we look forward to a world founded upon four essential human freedoms.

The first is freedom of speech and expression—everywhere in the world.

The second is freedom of every person to worship God in his own way—everywhere in the world.

The third is freedom from want—which, translated into world terms, means economic understandings which will secure to every nation a healthy peacetime life for its inhabitants—everywhere in the world.

The fourth is freedom from fear—which, translated into world terms, means a world-wide reduction of armaments to such a point and in such a thorough fashion that no nation will be in a position to commit an act of physical aggression against any neighbor—anywhere in the world.

That is no vision of a distant millennium. It is a definite basis for a kind of world attainable in our own time and generation. That kind of world is the very antithesis of the so-called new order of tyranny which the dictators seek to create with the crash of a bomb.

To that new order we oppose the greater conception—the moral order. A good society is able to face schemes of world domination and foreign revolutions alike without fear.

Since the beginning of our American history, we have been engaged in change—in a perpetual peaceful revolution—a revolution which goes on steadily, quietly adjusting itself to changing conditions—without the concentration camp or the quick-lime in the ditch. The world order which we seek is the cooperation of free countries, working together in a friendly, civilized society.

This nation has placed its destiny in the hands and heads and hearts of its millions of free men and women; and its faith in freedom under the guidance of God. Freedom means the supremacy of human rights everywhere. Our support goes to those who struggle to gain those rights or keep them. Our strength is our unity of purpose.

To that high concept there can be no end save victory.

Questions

1. How do the Four Freedoms reflect Americans' experiences during the 1930s?

2. Roosevelt himself added the phrase "everywhere in the world" to the first draft of this speech. Why do you think he did so?

144. Henry R. Luce, *The American Century* (1941)

Source: Henry Luce: "The American Century," February 17, 1941,* Life *Magazine. ***Copyright 1941 Life Inc. Reprinted with permission. All rights reserved.***

Even before the United States entered World War II, it had become clear that the nation would play a far more active role in international affairs than in the past. One of the most celebrated blueprints for the postwar world was written in 1941 by Henry Luce, the publisher of *Life* and *Time* magazines. In *The American Century*, Luce sought to mobilize the American people for both the coming war and an era of postwar world leadership. Americans, Luce's book insisted, must embrace the role history had thrust upon them as the world's most powerful nation. After the war, American power and American values would underpin a previously unimaginable prosperity—"the abundant life," Luce called it—produced by free economic enterprise.

Luce's essay anticipated important aspects of the postwar world. But some saw the term "American Century" as a call not for future international cooperation, but for an American empire.

IN THE FIELD of national policy, the fundamental trouble with America has been, and is, that whereas their nation became in the Twentieth Century the most powerful and the most vital nation in

the world, nevertheless Americans were unable to accommodate themselves spiritually and practically to that fact. Hence they have failed to play their part as a world power—a failure which has had disastrous consequences for themselves and for all mankind. And the cure is this: to accept wholeheartedly our duty and our opportunity as the most powerful and vital nation in the world and in consequence to exert upon the world the full impact of our influence, for such purposes as we see fit and by such means as we see fit.

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This Twentieth Century is baffling, difficult, paradoxical, revolutionary. But by now, at the cost of much pain and many hopes deferred, we know a good deal about it. And we ought to accommodate our outlook to this knowledge so dearly bought. For example, any true conception of our world of the Twentieth Century must surely include a vivid awareness of at least these four propositions.

First: our world of 2,000,000,000 human beings is for the first time in history one world, fundamentally indivisible. Second: modern man hates war and feels intuitively that, in its present scale and frequency, it may even be fatal to his species. Third: our world, again for the first time in human history, is capable of producing all the material needs of the entire human family. Fourth: the world of the Twentieth Century, if it is to come to life in any nobility of health and vigor, must be to a significant degree an American Century.

As to the first and second: in postulating the indivisibility of the contemporary world, one does not necessarily imagine that anything like a world state—a parliament of men—must be brought about in this century. Nor need we assume that war can be abolished. All that it is necessary to feel—and to feel deeply—is that terrific forces of magnetic attraction and repulsion will operate as between every large group of human beings on this planet. Large sections of the human family may be effectively organized into opposition to each other. Tyrannies may require a large amount of living space. But Freedom requires and will require far greater living space than Tyranny. Peace cannot endure unless it prevails over a very large part of the

world. Justice will come near to losing all meaning in the minds of men unless Justice can have approximately the same fundamental meanings in many lands and among many peoples.

As to the third point—the promise of adequate production for all mankind, the "more abundant life"—be it noted that this is characteristically an American promise. It is a promise easily made, here and elsewhere, by demagogues and proponents of all manner of slick schemes and "planned economies." What we must insist on is that the abundant life is predicated on Freedom—on the Freedom which has created its possibility—on a vision of Freedom under Law. Without Freedom, there will be no abundant life. With Freedom, there can be.

And finally there is the belief—shared let us remember by most men living—that the Twentieth Century must be to a significant degree an American Century. This knowledge calls us to action now.

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As American enters dynamically upon the world scene, we need most of all to seek and to bring forth a vision of America as a world power which is authentically American and which can inspire us to live and work and fight with vigor and enthusiasm. And as we come now to the great test, it may yet turn out that in all our trials and tribulations of spirit during the first part of this century we as a people have been painfully apprehending the meaning of our time and now in this moment of testing there may come clear at last the vision which will guide us to the authentic creation of the Twentieth Century—our Century.

Questions

1. What does Luce mean when he writes, "Freedom requires and will require far greater living space than Tyranny"?

2. How do you interpret the phrase "an American Century"?

145. Henry A. Wallace on "The Century of the Common Man" (1942)

Source: "Speech at the Free World Association, May 8, 1942," in Henry A. Wallace, **The Price of Free World Victory,** *ed. Russell Lord (New York, 1942), pp. 11–17.*

Many Americans who deplored the bombastic tone of Luce's call for an American Century welcomed the response offered by Vice President Henry Wallace. In a 1942 speech, Wallace outlined a different postwar vision. In contrast to Luce's American Century, a world of business dominance no less than American power, Wallace predicted that the war would usher in a "century of the common man." The "march of freedom," said Wallace, would continue in the postwar world. That world, however, would be marked by international cooperation, not any single power's rule. Governments acting to "humanize" capitalism and redistribute economic resources would eliminate hunger, illiteracy, and poverty.

Luce and Wallace both invoked the idea of freedom. Luce offered a confident vision of worldwide free enterprise, while Wallace anticipated a global New Deal. But they had one thing in common—a new conception of America's role in the world, tied to continued international involvement, the promise of economic abundance, and the idea that the American experience should serve as a model for all other nations.

THE MARCH OF freedom of the past 150 years has been a long-drawn-out people's revolution. In this Great Revolution of the people, there were the American Revolution of 1775, the French Revolution of 1792, the Latin-American revolutions of the Bolivarian era, the German Revolution of 1848, and the Russian Revolution of 1918. Each spoke for the common man in terms of blood on the battlefield. Some went to excess. But the significant thing is that the people groped their way to the light. More of them learned to think and work together.

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The people are on the march toward even fuller freedom than the most fortunate peoples of the earth have hitherto enjoyed. No Nazi counter-revolution will stop it. The common man will smoke the Hitler stooges out into the open in the United States, in Latin America, and in India. He will destroy their influence. No Lavals, no Musolinis will be tolerated in a Free World.

The people in their millennial and revolutionary march toward manifesting here on earth the dignity that is in every human soul, holds as its credo the Four Freedoms enunciated by President Roosevelt in his message to Congress on January 6, 1941. These Four Freedoms are the very core of the revolution for which the United States have taken their stand. We who live in the United States may think there is nothing very revolutionary about freedom of religion, freedom of expression, and freedom from the fear of secret police. But when we begin to think about the significance of freedom from want for the average man, then we know that the revolution of the past 150 years has not been completed, either here in the United States or in any other nation in the world. We know that this revolution can not stop until freedom from want has actually been attained.

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Some have spoken of the "American Century." I say that the century on which we are entering—the century which will come of this war—can be and must be the century of the common man. Perhaps it will be America's opportunity to suggest the freedoms and duties by which the common man must live. Everywhere the common man must learn to build his own industries with his own hands in a practical fashion. Everywhere the common man must learn to increase his productivity so that he and his children can eventually pay to the world community all that they have received. No nation will have the God-given right to exploit other nations. Older nations will have the privilege to help younger nations get started on the path to industrialization, but there must be neither military nor economic imperialism. The methods of the nineteenth century will not work in the people's century which is now about to

begin. India, China, and Latin America have a tremendous stake in the people's century. As their masses learn to read and write, and as they become productive mechanics, their standard of living will double and treble. Modern science, when devoted whole-heartedly to the general welfare, has in it potentialities of which we do not yet dream.

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When the time of peace comes, the citizen will again have a duty, the supreme duty of sacrificing the lesser interest for the greater interest of the general welfare. Those who write the peace must think of the whole world. There can be no privileged peoples. We ourselves in the United States are no more a master race than the Nazis. And we can not perpetuate economic warfare without planting the seeds of military warfare. We must use our power at the peace table to build an economic peace that is just, charitable and enduring.

Questions

1. How does Wallace's vision of the postwar world differ from Henry Luce's?

2. To what does Wallace seem to refer when he declares that there will be "no privileged peoples" in the postwar world?

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146. F. A. Hayek, *The Road to Serfdom* (1944)

Source:* F. A. Hayek: The Road to Serfdom, *pp. 16–30. Copyright © 1944 The University of Chicago Press. Reprinted by permission of The University of Chicago Press and the Estate of F. A. Hayek.

Henry Wallace's description of the world after the war seemed to suggest that government planning was the key to economic abundance. But, as

the war drew to a close, a surprise best-seller by Friedrich A. Hayek, a previously obscure Austrian-born economist, offered a vigorous argument that economic planning endangered freedom. In *The Road to Serfdom*, Hayek claimed that even the best-intentioned government efforts to direct the economy posed a threat to individual liberty. He condemned Western political and intellectual leaders for abandoning the traditional "liberal" idea of limited government in favor of an illusory definition of freedom as government action to plan the economy and redistribute resources to the less fortunate. Coming at a time when the miracles of war production had reinvigorated the reputation of capitalism, seriously tarnished by the Great Depression, Hayek offered a new intellectual justification for opponents of active government. In equating fascism, socialism, and the New Deal and identifying economic planning with a loss of freedom, he helped lay the foundation for the rise of modern conservatism and a revival of laissez-faire economic thought.

For at least twenty-five years before the specter of totalitarianism became a real threat, we had progressively been moving away from the basic ideas on which Western civilization has been built. That this movement on which we have entered with such high hopes and ambitions should have brought us face to face with the totalitarian horror has come as a profound shock to this generation, which still refuses to connect the two facts. Yet this development merely confirms the warnings of the fathers of the liberal philosophy which we still profess. We have progressively abandoned that freedom in economic affairs without which personal and political freedom has never existed in the past. Although we had been warned by some of the greatest political thinkers of the nineteenth century, by De Tocqueville and Lord Acton, that socialism means slavery, we have steadily moved in the direction of socialism. And now that we have seen a new form of slavery arise before our eyes, we have so completely forgotten the warning that it scarcely occurs to us that the two things may be connected.

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Because of the growing impatience with the slow advance of liberal policy, the just irritation with those who used liberal phraseology in defense of antisocial privileges, and the boundless ambition seemingly justified by the material improvements already achieved, it came to pass that toward the turn of the century the belief in the basic tenets of liberalism was more and more relinquished. What had been achieved came to be regarded as a secure and imperishable possession, acquired once and for all. The eyes of the people became fixed on the new demands, the rapid satisfaction of which seemed to be barred by the adherence to the old principles. It became more and more widely accepted that further advance could be expected not along the old lines within the general framework which had made past progress possible but only by a complete remodeling of society. It was no longer a question of adding to or improving the existing machinery but of completely scrapping and replacing it. And, as the hope of the new generation came to be centered on something completely new, interest in and understanding of the functioning of the existing society rapidly declined; and, with the decline of the understanding of the way in which the free system worked, our awareness of what depended on its existence also decreased.

This is not the place to discuss how this change in outlook was fostered by the uncritical transfer to the problem of society of habits of thought engendered by the preoccupation with technological problems, the habits of thought of the natural scientist and the engineer, and how these at the same time tended to discredit the results of the past study of society which did not conform to their prejudices and to impose ideals of organization on a sphere to which they are not appropriate. All we are here concerned to show is how completely, though gradually and by almost imperceptible steps, our attitude toward society has changed. What at every stage of this process of change had appeared a difference of degree only has in its cumulative effect already brought about a fundamental difference between the older liberal attitude toward society and the present approach to social problems. The change amounts to a complete

reversal of the trend we have sketched, an entire abandonment of the individualist tradition which has created Western civilization.

According to the views now dominant, the question is no longer how we can make the best use of the spontaneous forces found in a free society. We have in effect undertaken to dispense with the forces which produced unforeseen results and to replace the impersonal and anonymous mechanism of the market by collective and "conscious" direction of all social forces to deliberately chosen goals. The difference cannot be better illustrated than by the extreme position taken in a widely acclaimed book on whose program of so-called "planning for freedom" we shall have to comment yet more than once. "We have never had to set up and direct," writes Dr. Karl Mannheim, "the entire system of nature as we are forced to do today with society.... Mankind is tending more and more to regulate the whole of its social life, although it has never attempted to create a second nature."

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The subtle change in meaning to which the word "freedom" was subjected in order that this argument should sound plausible is important. To the great apostles of political freedom the word had meant freedom from coercion, freedom from the arbitrary power of other men, release from the ties which left the individual no choice but obedience to the orders of a superior to whom he was attached. The new freedom promised, however, was to be freedom from necessity, release from the compulsion of the circumstances which inevitably limit the range of choice of all of us, although for some very much more than for others. Before man could be truly free, the "despotism of physical want" had to be broken, the "restraints of the economic system" relaxed.

Freedom in this sense is, of course, merely another name for power or wealth. Yet, although the promises of this new freedom were often coupled with irresponsible promises of a great increase in material wealth in a socialist society, it was not from such an absolute conquest of the niggardliness of nature that economic freedom was

expected. What the promise really amounted to was that the great existing disparities in the range of choice of different people were to disappear. The demand for the new freedom was thus only another name for the old demand for an equal distribution of wealth. But the new name gave the socialists another word in common with the liberals, and they exploited it to the full. And, although the word was used in a different sense by the two groups, few people noticed this and still fewer asked themselves whether the two kinds of freedom promised could really be combined.

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Questions

1. What does Hayek see as the essence of freedom?

2. How does his outlook differ from President Roosevelt's idea of freedom from want?

147. World War II and Mexican-Americans (1945)

Source: LULAC: Editorial, "World War II and Mexican Americans,"* LULAC News, *Volume 12, October 1945, pp. 5–6. Reprinted by permission of LULAC.

Founded in 1929, the League of United Latin American Citizens (LULAC) campaigned for equal treatment for Americans of Latino descent and their full integration into American life. Some half a million Mexican-Americans served in the armed forces during World War II, but Latinos continued to face widespread discrimination. An editorial in the LULAC newsletter soon after the war ended drew upon military service to condemn anti-Latino prejudice. Its aggressive language reflected the rising demand for equal rights sparked by the war experience among many minority groups.

"We do not serve Mexicans here." "You will have to get out as no Mexicans are allowed." "Your uniform and service ribbons mean nothing here. We still do not allow Mexicans."

These, and many other stronger-worded ones, are the embarrassing and humiliating retorts given our returning veterans of Latin American descent and their families. They may all be worded differently, and whereas some are toned with hate and loathness while others are toned with sympathy and remorse, still the implication remains that these so-called "Mexicans" are considered unworthy of equality, regardless of birthright or service. This situation is ironic indeed, in view of the fact that these same "Mexicans" have just finished helping this country to defeat countries to the east and west who would impose upon the world a superior people, a superior culture.

Why this hate, this prejudice, this tendency to discriminate against a people whose only fault seems to be that they are heirs of a culture older than any known "American Culture," to find themselves a part of a land and people they have helped to build and to defend, to find themselves a part of a minority group whose acquired passive nature keeps them from boldly demanding those rights and privileges which are rightfully theirs? Can it be the result of difference in race, nationality, language, loyalty, intelligence or ability?

There is no difference in race. Latin Americans, or so-called "Mexicans," are Caucasian or white. There are only three races: the Caucasian, the Negroid, and the Mongoloid. Racial characteristics place the Latin American among the white. Who dares contradict nature? There is no difference in nationality. These "Mexicans" were born and bred in this country and are just as American as Jones or Smith. In fact, the ancestors of these "Mexicans" were here before those of Jones or Smith decided to take up abode. Difference in language? No. These "Mexicans" speak English. Accented, perhaps, in some cases, but English all over the United States seems to be accented. That these "Mexicans" can speak Spanish is not a detriment, it is an asset. After all, there are not too many people in this country who

can boast a knowledge of the most widely spoken languages in the world. Difference in loyalty? How can that be when all revere the same stars and stripes, when they don the same service uniforms for the same principles? Difference in intelligence and ability? Impossible....

We could go on and on naming erroneously imagined differences to be used as a basis for this hate and find each one false. This condition is not a case of difference; it is a case of ignorance. Yes, ignorance. Odd indeed to find this banal state of mind in a country of such enlightment and progress. But then, ignorance is like a disease that is contagious, but contagious only for those who wish to suffer from it. Ignorance, bigotry, prejudice, and intolerance all down through the centuries have tried to crush intelligence with cruelty, reason with brutality, and spirituality with madness. This quartet of banalities constitutes the curse of the world. Ignorance is the parent of the other three.

Yes, ignorance broods hate and all its resultant actions of jealousy, misunderstandings, erroneous opinions, and premeditated feelings of discord and confusion. In this particular case of unjustified failure to foment a fraternal feeling between two groups of Americans, it is an ignorance of facts that poisons the atmosphere. An ignorance of the cultural contributions of Americans of Latin American descent to the still young American Culture; an ignorance of the blood, sweat, and efforts given to this country for its betterment; an ignorance of the sufferings withstood and the lives given to preserve this country free and independent through its various periods of strife and conflict; and finally, an ignorance of a sense of appreciation for a long, profitable, and loyal association with a group of Americans whose voice cries out in desperate supplication:

> We have proved ourselves true and loyal Americans by every trial and test that has confronted us; now give us social, political, and economic equality and the opportunity to practice and enjoy that equality. We ask for it not as a favor, but as a delegated right guaranteed by our Constitution, and as a reward for faithful service.

Questions

1. What are the implications of explaining prejudice and discrimination as arising from ignorance rather than economic self-interest?

2. Why does the editorial insist on identifying Latinos as white?

148. African-Americans and the Four Freedoms (1944)

Source: Charles Wesley: "The Negro Has Always Wanted the Four Freedoms," from **What the Negro Wants** *edited by Rayford W. Logan. Copyright © 1944 by the University of North Carolina Press, renewed 1972 by Rayford W. Logan. Used by permission of the publisher.*

World War II reinvigorated the black struggle for equality in America. In 1944 the University of North Carolina Press published *What the Negro Wants*, a book of essays by fourteen prominent black leaders. Virtually every contributor called for the right to vote in the South, the dismantling of segregation, and access to the "American standard of living." Several essays also linked the black movement for racial justice with movements against European imperialism in Africa and Asia. Many whites could not accept these demands. When he read the manuscript, W. T. Couch, the director of the press was stunned. "If this is what the Negro wants," he told the book's editor, "nothing could be clearer than what he needs, and needs most urgently, is to revise his wants." In this excerpt, the historian Charles H. Wesley explains that blacks are denied each of the Four Freedoms, and also illustrates how the war strengthened black internationalism.

[NEGROES] HAVE WANTED what other citizens of the United States have wanted. They have wanted freedom and opportunity. They have wanted the pursuit of the life vouchsafed to all citizens of the United States by our own liberty documents. They have wanted freedom of speech, [but] they were supposed to be silently acquiescent in all aspects of their life.... They have wanted freedom of religion, for they had been compelled to "steal away to Jesus"... in order to worship God as they desired.... They have wanted freedom from want.... However, the Negro has remained a marginal worker and the competition with white workers has left him in want in many localities of an economically sufficient nation. They have wanted freedom from fear. They have been cowed, brow-beaten or beaten, as they have marched through the years of American life....

The Negro wants ultimately the abolition of segregation in education and the equalization of educational opportunity as an immediate step. The segregated Negro school is usually an inferior school and a disparity in the bi-racial system continues to develop.... This inequality is represented by inequalities in school terms, salaries, training of teachers, buildings and equipment. The inequalities extend from the elementary schools through the graduate school....

The Negro wants democracy to begin at home. As one was heard to say... "I would rather die for democracy here than in Germany." ... Some are already beginning to doubt that this war is a war for freedom or democracy.... They are beginning to be disillusioned when they think of the result of the first world war to save the world for democracy. The future of our democratic life is insecure so long as the hatred, disdain and disparagement of Americans of African ancestry exist....

The Negro wants not only to win the war but also to win the peace... He wants the peace to be free of race and color restrictions, of imperialism and exploitation, and inclusive of the participation of minorities all over the world in their own governments. When it is said that we are fighting for freedom, the Negro asks, "Whose freedom?" Is it the freedom of a peace to exploit, suppress, exclude, debase and restrict colored peoples in India, China, Africa, Malaya in the usual ways?... Will Great Britain and the United States specifically omit from the Four Freedoms their minorities and subject peoples? The Negro does not want such a peace.

Questions:

1. How does this document reflect black Americans' growing sense of identification with nonwhite peoples in other parts of the world?

2. In what ways, according to Wesley, are blacks denied the Four Freedoms?

149. Justice Robert A. Jackson, Dissent in *Korematsu v. United States* (1944)

Source: **Korematsu v. United States, *323 U.S. 214 (1944)*.**

Unlike in World War I, the federal government during World War II actively promoted a pluralist vision of the United States as a place where persons of all races, religions, and national origins could enjoy freedom equally. The great exception to this new emphasis on tolerance was the experience of Japanese-Americans. In February 1942 the military persuaded FDR to order the expulsion of all persons of Japanese descent from the West Coast. Authorities removed over 110,000 men, women, and children, nearly two thirds of them American citizens, to internment camps far from their homes.

In 1944, the Supreme Court denied the appeal of Fred Korematsu, who had been arrested for refusing to present himself for internment. Speaking for a 6–3 majority, Justice Hugo Black upheld the constitutionality of the internment policy, insisting that an order applying only to persons of Japanese descent was not based on race. As Justice Robert Jackson pointed out in his dissent, Korematsu was not accused of any crime. He condemned the majority for justifying a massive violation of civil liberties. In

1988, Congress apologized for internment and provided compensation to surviving victims.

KOREMATSU WAS BORN on our soil, of parents born in Japan. The Constitution makes him a citizen of the United States by nativity and a citizen of California by residence. No claim is made that he is not loyal to this country. There is no suggestion that apart from the matter involved here he is not law-abiding and well disposed. Korematsu, however, has been convicted of an act not commonly a crime. It consists merely of being present in the state whereof he is a citizen, near the place where he was born, and where all his life he has lived.

Even more unusual is the series of military orders which made this conduct a crime. They forbid such a one to remain, and they also forbid him to leave. They were so drawn that the only way Korematsu could avoid violation was to give himself up to the military authority. This meant submission to custody, examination, and transportation out of the territory, to be followed by indeterminate confinement in detention camps.

A citizen's presence in the locality, however, was made a crime only if his parents were of Japanese birth. Had Korematsu been one of four—the others being, say, a German alien enemy, an Italian alien enemy, and a citizen of American-born ancestors convicted of treason but out on parole—only Korematsu's presence would have violated the order. The difference between their innocence and his crime would result, not from anything he did, said, or thought different than they but only in that he was born of different racial stock.

Now, if any fundamental assumption underlies our system, it is that guilt is personal and not inheritable. Even if all of one's antecedents had been convicted of treason, the Constitution forbids its penalties to be visited upon him, for it provides that "no attainder of treason shall work corruption of blood or forfeiture except during the life of the person attained." But here is an attempt to make an

otherwise innocent act a crime merely because this prisoner is the son of parents as to whom he had no choice and belongs to a race from which there is no way to resign. If Congress in peacetime legislation should enact such a criminal law, I should suppose this Court would refuse to enforce it.

But the "law" which this prisoner is convicted of disregarding is not found in an act of Congress but in a military order. Neither the act of Congress nor the executive order of the President, nor both together, would afford a basis for this conviction. It rests on the orders of General DeWitt. And it is said that if the military commander had reasonable military grounds for promulgating the orders, they are constitutional and become law, and the Court is required to enforce them. There are several reasons why I cannot subscribe to this doctrine.

It would be impracticable and dangerous idealism to expect or insist that each specific military command in an area of probable operations will conform to conventional tests of constitutionality. When an area is so beset that it must be put under military control at all, the paramount consideration is that its measures be successful rather than legal. The armed services must protect a society, not merely its Constitution. The very essence of the military job is to marshal physical force, to remove every obstacle to its effectiveness, to give it every strategic advantage. Defense measures will not, and often should not, be held within the limits that bind civil authority in peace. No court can require such a commander in such circumstances to act as a reasonable man; he may be unreasonably cautious and exacting. Perhaps he should be. But a commander in temporarily focusing the life of a community on defense is carrying out a military program; he is not making law in the sense the courts know the term. He issues orders, and they may have a certain authority as military commands, although they may be very bad as constitutional law.

But if we cannot confine military expedients by the Constitution, neither would I distort the Constitution to approve all that the

military may deem expedient. That is what the Court appears to be doing, whether consciously or not. I cannot say, from any evidence before me, that the orders of General DeWitt were not reasonably expedient military precautions, nor could I say that they were. But even if they were permissible military procedures, I deny that it follows that they are constitutional. If, as the Court holds, it does follow, then we may as well say that any military order will be constitutional and have done with it.

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A military order, however unconstitutional, is not apt to last longer than the military emergency. Even during that period a succeeding commander may revoke it all. But once a judicial opinion rationalizes such an order to show that it conforms to the Constitution, or rather rationalizes the Constitution to show that the Constitution sanctions such an order, the Court for all time has validated the principle of racial discrimination in criminal procedure and of transplanting American citizens. The principle then lies about like a loaded weapon ready for the hand of any authority that can bring forward a plausible claim of an urgent need. Every repetition imbeds that principle more deeply in our law and thinking and expands it to new purposes. All who observe the work of courts are familiar with what Judge Cardozo described as "the tendency of a principle to expand itself to the limit of its logic." A military commander may overstep the bounds of constitutionality and it is an incident. But if we review and approve, that passing incident becomes the doctrine of the Constitution. There it has a generative power of its own, and all that it creates will be in its own image. Nothing better illustrates this danger than does the Court's opinion in this case.

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I should hold that a civil court cannot be made to enforce an order which violates constitutional limitations even if it is a reasonable exercise of military authority. The courts can exercise only the judicial power, can apply only law, and must abide by the Constitution, or they cease to be civil courts and become instruments of military policy.

Questions

1. Why does Jackson believe that even though military authorities have the power to violate constitutional protections in time of war, the courts should not approve their actions?

2. How did the experience of Japanese-Americans differ from that of Americans whose ancestors came from Germany, Italy, or other countries fighting the United States?