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OPENING STATEMENT OF
SENATOR CHARLES E. GRASSLEY, CHAIRMAN
BEFORE THE
SENATE SUBCOMMITTEE ON ADMINISTRATIVE PRACTICE AND PROCEDURE
REGARDING S.1520 JAPANESE INTERNMENT REDRESS
ON JULY 27, 1983
IN ROOM SD 562 at 10:00 AM

The purpose of our hearing today is to receive and review the reports of the Commission on Wartime Relocation and Internment of Civilians and to consider related legislation.

Congress established the Commission in 1980 and directed it to review the facts and circumstances surrounding the evacuation, relocation, and internment of citizens and aliens during World War II. The Commission was also instructed to determine whether a wrong was committed against those individuals, and recommend appropriate remedies, if any, for those affected by the government's action.

This subject - the relocation of approximately 120,000 citizens and resident aliens of Japanese ancestry in 1942 - has been the source of numerous discussions and debates. Scholars, journalists, and elected officials have all commented, as well as concerned individuals and groups directly involved.

It is the task of this subcommittee to provide an open forum for an objective examination of not only the most recent study of the Commission, but any other findings, conclusions or recommendations offered.

Both the proposed legislation, S. 1520, the World War II Civil Liberties Violations Redress Act, and the Commission recommendations advocate, among other things, individual compensation for those citizens and resident aliens evacuated and detained at that time. We hope to discuss today the compensation proposal along with the additional recommendations including establishment of a trust fund and the conveying of a national apology.

In reviewing these recommendations and the related legislation, it is incumbent on us to also consider the findings on which they are based. The Commission announced the basis for its recommendations in its first report, Personal Justice Denied. I trust we will hear more about that report and the determinations arising from it in the Commission's testimony today. We will also be hearing from individuals who have arrived at different conclusions and

will offer their evaluation of the recommendations and pending legislation.

While S. 1520 and the Commission recommendations also provide remedies to residents of the Aleutian and Pribilof Islands, we intend to address that issue separately in a later hearing. Today we will concentrate solely on the question of reparations for Japanese-Americans.

STATEMENT OF JOAN Z. BERNSTEIN ON
BEHALF OF THE COMMISSION ON WARTIME
RELOCATION AND INTERNMENT OF CIVILIANS

From 1981 to 1983 I served as Chairman of the Commission on Wartime Relocation and Internment of Civilians. It gives me great pleasure to appear before the Subcommittee on Administrative Practice and Procedure 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.

The Commission was established by Congress in 1980 and directed to

1. review the facts and circumstances surrounding Executive Order Numbered 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. I have appended to this testimony the summary chapter of Personal Justice Denied. In June the Commission issued its recommendations for remedies

which I have also appended to this testimony. The recommendations followed not only the historical analysis but also an economic study and a conference on health perspectives; the reports on those activities are being prepared for distribution by the Government Printing Office.

It is my understanding that the Subcommittee is today holding the first of a series of hearings and that the focus is on the wartime treatment and experience of Japanese Americans. For that reason I will not address the Aleuts in my statement and remarks this morning.

The basic facts about the wartime treatment of Japanese Americans have long been known. 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 making 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 importance of these events have not been forgotten by those who continue to believe in America as a bulwark of freedom. Ronald Reagan, speaking in 1970 as Governor of California, pointedly and accurately underscored what each American should take from this history:

"A lesson was learned in California during World War II, which should be made a part of the record and the heritage of Americans everywhere who cherish liberty, freedom, and constitutional guarantees."

With the passage of years, these views were largely shared by those who directly participated in the wartime events. In memoirs and other statements after the war, many of those involved in the exclusion, removal and detention passed judgment

on those events. While believing in the context of the time that evacuation was a legitimate exercise of the war powers, Henry L. Stimson, the Secretary of War, recognized that "to loyal citizens this forced evacuation was a personal injustice." Justice William O. Douglas, who joined the majority opinion in Korematsu which held the exclusion constitutionally permissible, found that the case "was ever on my conscience." Milton Eisenhower described the removal of the Japanese Americans to the relocation camps as "an inhuman mistake." Chief Justice Earl Warren, who had urged the exclusion as Attorney General of California, stated, "I have since deeply regretted the removal order and my own testimony advocating it, because it was not in keeping with our American concept of freedom and the rights of citizens." Justice Tom C. Clark, who had been liaison between the Justice Department and the Western Defense Command, concluded, "Looking back on it today [the evacuation] was, of course, a mistake."

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 clamour 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 Secretary 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 views were substantially influenced by the governors and public officials of the West Coast states whose views he sought before taking 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. It 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. In fact the realistic estimates of the time suggested that there was as much or more danger from other segments of the population.

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.

Secretary Stimson and Assistant Secretary McCloy approved the original order of exclusion, but they were men who were open to an understanding of the facts and they did not accept General DeWitt's views on race or believe that the Japanese Americans should be excluded from the West Coast for the duration of the war.

Mr. McCloy and Secretary Stimson opposed professional military opinion in deciding that the Army would seek volunteers among the Japanese Americans, thus opening the door to persuading even the most prejudiced of the loyalty of Japanese Americans who returned from European battlefields loaded with honors won in the service of the United States.

Most importantly, by the spring of 1943, the civilians at the head of the War Department had reached the position that no justification existed any longer for excluding loyal Japanese American citizens from the West Coast. In April 1943, McCloy laid out the basic points very forcefully to General DeWitt, who was on the West Coast. I quote the letter at

length because it states succinctly the situation in the spring of 1943 and lays bare the differences of opinion with General DeWitt and those who supported exclusion:

"The threat of Japanese attack is far from what it was. We are better organized to meet such an attack if it occurred. And we know a great deal more about our Japanese population. Furthermore, the War Department has established a combat team for volunteer American citizens of Japanese ancestry . . . [T]he War Department has initiated a process for loyalty investigations of all Japanese Americans to determine their eligibility for work in plants and facilities vital to the war effort. In other words, . . . the policy of the nation's Government, as well as that of the War Department, is presently looking toward the restoration to all loyal persons of Japanese ancestry of all their normal rights and privileges, to the end that they may be able to make their maximum contribution to the war effort. The very "entering wedge" which you appear to dread is precisely what must be accomplished.

* * *

That there is serious animosity on the West Coast against all evacuated Japanese I do not doubt, but that does not necessarily mean that we should trim our sails accordingly. The longer California luxuriates in the total absence of the Japanese the more difficult it will be to restore them to the economy of California. They have a place in California as well as in any other state as long as military considerations do not intervene. I cannot help but feel that social considerations rather than military ones determine the total exclusion policy. The army, as I see it, is not responsible for the general public peace of the Western

Defense Command. That responsibility still rests with the civil authorities. There may, as you suggest, be incidents, but these can be effectively discouraged by prompt action by law enforcement agencies, with the cooperation of the military if they even assume really threatening proportions." (Emphasis supplied)

McCloy was entirely correct in his view that the military situation no longer justified exclusion (if indeed it ever could). A program for returning the Japanese Americans to the West Coast needed to be started and McCloy urged the gradual return of Japanese Americans beginning at once.

Unfortunately, it did not happen as McCloy told General DeWitt it should. The exclusion was not ended for another eighteen months. General DeWitt continued to support the exclusion with every tactic available until he left the Western Defense Command in the fall of 1943. Throughout 1943 and 1944 there continued to be virulent and widespread opposition in the West Coast press, among West Coast politicians and interest groups to the return of Japanese Americans to the West Coast. These views prevailed. For at least the last six months of that period, immediately before the Presidential election of 1944, the decision to continue the exclusion was that of President Roosevelt.

By any analysis with the least sensitivity to American constitutional values there was no justification for holding loyal American citizens of Japanese descent in detention or

prohibiting them from traveling, living and working where they chose.

In his memoirs, Secretary Stimson cogently called the evacuation a "personal injustice" to loyal Japanese Americans. It was a personal injustice precisely because the country failed to apply justice in a personal or individual manner. Men, women and children were uprooted from their homes and their lives shattered because the United States failed to provide personal justice in time of war. It is important to emphasize that we are dealing here with American behavior. It is not a question of how the Japanese or the Nazis treated Americans or other prisoners which is one of the darkest chapters of modern history. What the Commission has examined and taken testimony about, pursuant to the direction from Congress, is how the United States dealt with American citizens and residents.

The other part of this history is the impact of these events on Americans of Japanese descent. The damage done by this country to its own citizens and residents is a mosaic made up of thousands of lives and thousands of personal histories. The Commission's hearing record is replete with searing and painful testimony. There was the economic loss of farms and homes sold in distress circumstances, of elderly people having to start from scratch a second time after the war, of families detained in camps without employment and

unable to meet tax and mortgage and insurance payments; of education and careers disrupted. An analysis of the economic losses suffered as a consequence of the exclusion and detention was performed for the Commission. It is estimated that, as a result of the exclusion and detention, in 1945 dollars the ethnic Japanese lost between \$108 and \$164 million in income and between \$41 and \$206 million in property for which no compensation was made after the war under the terms of the Japanese-American Evacuation Claims Act. Adjusting these figures to account for inflation alone, the total losses of income and property fall between \$810 million and \$2 billion in 1983 dollars. It has not been possible to calculate the effects upon human capital of lost education, job training and the like.

Over time and with perseverance material losses may be repaired, but the hidden scars of lives damaged by the exclusion and detention remain. Each individual excluded from the West Coast and sent only with the baggage he could carry to spend two and a half years behind barbed wire carries his own marks from that time. For people who knew their innocence and the injustice of their treatment the burden was not light. They bore the stigma of having been branded potentially disloyal, the deprivation of liberty and the loss of the common decencies of daily life. An essential foundation of our government -- the citizen's trust that the government will deal with him individually and fairly -- was deeply damaged. The

injuries inflicted by the country on these citizens were different in kind from the suffering and loss which the Second World War brought to all Americans.

In Hawaii, we did things differently. Despite the Pearl Harbor attack, there was no exclusion or detention of any significant number of Japanese Americans. Calmer minds with a better sense of justice prevailed and today neither the material nor the intangible injuries of the Japanese Americans on the mainland remain to haunt us in Hawaii. We also showed more restrained behavior with respect to people of German descent. Despite six months of intense submarine warfare along the Atlantic Coast which destroyed massive amounts of American shipping, we escaped the violent reaction against all things German which had marked World War I. In both these circumstances, we showed confidence in the principles of our government and they met the test of wartime conditions.

No recommendations which this Commission has made, no statute that Congress may enact, can undo this history. No redress to Japanese Americans can assure that we will not repeat the errors of 1942. What happened after Pearl Harbor is particularly sobering because men of the greatest stature with careers of the most distinguished public service -- Democrat and Republican; conservative and liberal; judges, legislators and cabinet members; the President himself -- were personally involved in a course of action which today we can only

find gravely unjust and deeply injurious. The bulwark of our Constitution did not withstand it.

It is well within our power, however, to provide remedies for violations of our own laws and principles. This is one important reason for the several forms of redress which the Commission has recommended. Another is that our nation's ability to honor democratic values even in times of stress depends largely upon our collective memory of lapses from our constitutional commitment to liberty and due process. Nations that forget or ignore injustices are more likely to repeat them.

With regard to American citizens and residents of Japanese descent, the Commission has made five recommendations:

1. The Commission recommends that Congress pass a joint resolution, to be signed by the President, which recognizes that a grave injustice was done and offers the apologies of the nation for the acts of exclusion, removal and detention.

2. The Commission recommends that the President pardon those who were convicted of violating the statutes imposing a curfew on American citizens on the basis of their ethnicity and requiring the ethnic Japanese to leave designated areas of the West Coast or to report to assembly centers. The Commission further recommends that the Department of Justice review other wartime convictions of the ethnic Japanese and recommend to the President that he pardon those whose offenses were grounded in

a refusal to accept treatment that discriminated among citizens on the basis of race or ethnicity. Both recommendations are made without prejudice to cases currently before the courts.

3. The Commission recommends that Congress direct the Executive agencies to which Japanese Americans may apply for the restitution of positions, status or entitlements lost in whole or in part because of acts or events between December 1941 and 1945 to review such applications with liberality, giving full consideration to the historical findings of this Commission. For example, the responsible divisions of the Department of Defense should be instructed to review cases of less than honorable discharge of Japanese Americans from the armed services during World War II over which disputes remain, and the Secretary of Health and Human Services should be directed to instruct the Commissioner of Social Security to review any remaining complaints of inequity in entitlements due to the wartime detention.

4. The Commission recommends that Congress demonstrate official recognition of the injustice done to American citizens of Japanese ancestry and Japanese resident aliens during the Second World War, and that it recognize the nation's need to make redress for these events, by appropriating monies to establish a special foundation.

The Commissioners all believe a fund for educational and humanitarian purposes related to the wartime events is appro-

priate, and all agree that no fund would be sufficient to make whole again the lives damaged by the exclusion and detention. The Commissioners agree that such a fund appropriately addresses an injustice suffered by an entire ethnic group, as distinguished from individual deprivations.

Such a fund should sponsor research and public educational activities so that the events which were the subject of this inquiry will be remembered, and so that the causes and circumstances of this and similar events may be illuminated and understood. A nation which wishes to remain just to its citizens must not forget its lapses. The recommended foundation might appropriately fund comparative studies of similar civil liberties abuses or of the effect upon particular groups of racial prejudice embodied by government action in times of national stress; for example, the fund's public educational activity might include preparing and distributing the Commission's findings about these events to textbook publishers, educators and libraries.

5. The Commissioners, with the exception of Congressman Lungren, recommend that Congress establish a fund which will provide personal redress to those who were excluded, as well as serve the purposes set out in Recommendation 4. Appropriations of \$1.5 billion should be made to the fund over a reasonable period to be determined by Congress. This fund should be used, first, to provide a one-time per capita

compensatory payment of \$20,000 to each of the approximately 60,000 surviving persons excluded from their places of residence pursuant to Executive Order 9066. The burden should be on the government to locate survivors, without requiring any application for payment, and payments should be made to the oldest survivors first. After per capita payments, the remainder of the fund should be used for the public educational purposes discussed in Recommendation 4 as well as for the general welfare of the Japanese American community. This should be accomplished by grants for purposes such as aid to the elderly and scholarships for education, weighing, where appropriate, the effect on the exclusion and detention on the descendants of those who were detained. Individual payments in compensation for loss or damage should not be made.

The fund should be administered by a board, the majority of whose members are Americans of Japanese descent appointed by the President and confirmed by the Senate. The compensation of members of the Board should be limited to their expenses and per diem payments at accepted governmental rates.

The fundamental justification for these recommendations can be found in the history which the Commission reported in Personal Justice Denied. A few basic points deserve emphasis in summation. Congress directed the Commission to review the treatment of American citizens and residents by the American government. The Commissioners deplore the methods and the

record of Japan's armed forces during World War II; but it must be kept clearly in mind that the American citizens who were sent to Manzanar or Poston were no more responsible for Pearl Harbor and the Bataan Death March than German Americans were for the invasion of France or the bombing of Britain. The American principle that a man is judged as an individual and not by where his grandparents came from must not be allowed to become a casualty of war.

A free act of apology to those who were unjustly excluded and detained during the war is an important act of national healing. If we are unwilling as a nation to apologize for these events, we will deliver a message to the thousands of loyal Americans who were held in the camps that will be bitter indeed. We will be affirming after forty years that the American values of due process and equality before the law without regard to ethnicity or race are only rhetorical values and that in times of stress small minorities should harbor no hope that those principles will protect them from the fear and anger of their neighbors or the heavy hand of their government. Such a result is a threat to the liberty of all Americans.

In addressing monetary payments, two points must be borne in mind. First, the Commission was asked to recommend appropriate remedies; not simply ordinary and usual remedies. For events as unusual and extraordinary as these one can only

expect an extraordinary response. Nevertheless, it must be clearly remembered that measures of this sort have been enacted in the past. The Indian Claims Act of 1946 which allowed the Indian tribes to present their historical claims of illegal or inequitable treatment by government is the most obvious precedent; very substantial monetary payments have been made to the Indians under that statute.

Second, the justification for monetary payments need not rest solely on an argument as to whether the initial acts of 1942 were totally unjustified. One need only look at the last eighteen months of exclusion and detention. By the middle of 1943 there was no conceivable threat of attack on the West Coast from Japan. Fifteen months of incarceration had provided ample time to identify spies and saboteurs if there were any of significance. Secretary Stimson and Mr. McCloy had concluded that there were no military reasons justifying the exclusion of the loyal from the West Coast. Nevertheless, the Japanese Americans were not allowed to go home until the end of 1944 and most of them spent that eighteen months behind barbed wire. It's hard to imagine circumstances more clearly justifying compensation from the government.

Mr. Chairman, on behalf of all the Commissioners I want to thank you for inviting me here this morning and I assure you that we will seek to help you in any way that we can with regard to future hearings and legislation that the Committee may take up.

Personal Justice Denied

**REPORT OF THE
COMMISSION ON WARTIME RELOCATION
AND INTERNMENT OF CIVILIANS**

**WASHINGTON, D.C.
DECEMBER 1982**

THE COMMISSION ON WARTIME RELOCATION
AND INTERNMENT OF CIVILIANS

Joan Z. Bernstein, *Chair*

Daniel E. Lungren, *Vice-Chair*

Edward W. Brooke

Robert F. Drinan

Arthur S. Flemming

Arthur J. Goldberg

Ishmael V. Gromoff

William M. Marutani

Hugh B. Mitchell

Angus Macbeth, *Special Counsel*

Summary

The Commission on Wartime Relocation and Internment of Civilians was established by act of Congress in 1980 and directed to

1. review the facts and circumstances surrounding Executive Order Numbered 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 this mandate, the Commission held 20 days of hearings in cities across the country, particularly on the West Coast, hearing testimony from more than 750 witnesses: evacuees, former government officials, public figures, interested citizens, and historians and other professionals who have studied the subjects of Commission inquiry. An extensive effort was made to locate and to review the records of government action and to analyze other sources of information including contemporary writings, personal accounts and historical analyses.

By presenting this report to Congress, the Commission fulfills the instruction to submit a written report of its findings. Like the body of the report, this summary is divided into two parts. The first describes

actions taken pursuant to Executive Order 9066, particularly the treatment of American citizens of Japanese descent and resident aliens of Japanese nationality. The second covers the treatment of Aleuts from the Aleutian and Pribilof Islands.

PART I: NISEI AND ISSEI*

On February 19, 1942, ten weeks after the Pearl Harbor attack, President Franklin D. Roosevelt signed Executive Order 9066, which gave to the Secretary of War and the military commanders to whom he delegated authority, the power to exclude any and all persons, citizens and aliens, from designated areas in order to provide security against sabotage, espionage and fifth column activity. Shortly thereafter, all American citizens of Japanese descent were prohibited from living, working or traveling on the West Coast of the United States. The same prohibition applied to the generation of Japanese immigrants who, pursuant to federal law and despite long residence in the United States, were not permitted to become American citizens. Initially, this exclusion was to be carried out by "voluntary" relocation. That policy inevitably failed, and these American citizens and their alien parents were removed by the Army, first to "assembly centers"—temporary quarters at racetracks and fairgrounds—and then to "relocation centers"—bleak barrack camps mostly in desolate areas of the West. The camps were surrounded by barbed wire and guarded by military police. Departure was permitted only after a loyalty review on terms set, in consultation with the military, by the War Relocation Authority, the civilian agency that ran the camps. Many of those removed from the West Coast were eventually allowed to leave the camps to join the Army, go to college outside the West Coast or to whatever private employment was available. For a larger number, however, the war years were spent behind barbed wire; and for those who were released, the prohibition against returning to their homes and occupations on the West Coast was not lifted until December 1944.

This policy of exclusion, removal and detention was executed against

*The first generation of ethnic Japanese born in the United States are *Nisei*; the *Issei* are the immigrant generation from Japan; and those who returned to Japan as children for education are *Kibei*.

120,000 people without individual review, and exclusion was continued virtually without regard for their demonstrated loyalty to the United States. Congress was fully aware of and supported the policy of removal and detention; it sanctioned the exclusion by enacting a statute which made criminal the violation of orders issued pursuant to Executive Order 9066. The United States Supreme Court held the exclusion constitutionally permissible in the context of war, but struck down the incarceration of admittedly loyal American citizens on the ground that it was not based on statutory authority.

All this was done despite the fact that not a single documented act of espionage, sabotage or fifth column activity was committed by an American citizen of Japanese ancestry or by a resident Japanese alien on the West Coast.

No mass exclusion or detention, in any part of the country, was ordered against American citizens of German or Italian descent. Official actions against enemy aliens of other nationalities were much more individualized and selective than those imposed on the ethnic Japanese.

The exclusion, removal and detention inflicted tremendous human cost. There was the obvious cost of homes and businesses sold or abandoned under circumstances of great distress, as well as injury to careers and professional advancement. But, most important, there was the loss of liberty and the personal stigma of suspected disloyalty for thousands of people who knew themselves to be devoted to their country's cause and to its ideals but whose repeated protestations of loyalty were discounted—only to be demonstrated beyond any doubt by the record of Nisei soldiers, who returned from the battlefields of Europe as the most decorated and distinguished combat unit of World War II, and by the thousands of other Nisei who served against the enemy in the Pacific, mostly in military intelligence. The wounds of the exclusion and detention have healed in some respects, but the scars of that experience remain, painfully real in the minds of those who lived through the suffering and deprivation of the camps.

The personal injustice of excluding, removing and detaining loyal American citizens is manifest. Such events are extraordinary and unique in American history. For every citizen and for American public life, they pose haunting questions about our country and its past. It has been the Commission's task to examine the central decisions of this history—the decision to exclude, the decision to detain, the decision to release from detention and the decision to end exclusion. The Commission has analyzed both how and why those decisions were made, and what their consequences were. And in order to illuminate those

events, the mainland experience was compared to the treatment of Japanese Americans in Hawaii and to the experience of other Americans of enemy alien descent, particularly German Americans.

The Decision to Exclude

The Context of the Decision. First, the exclusion and removal were attacks on the ethnic Japanese which followed a long and ugly history of West Coast anti-Japanese agitation and legislation. Antipathy and hostility toward the ethnic Japanese was a major factor of the public life of the West Coast states for more than forty years before Pearl Harbor. Under pressure from California, immigration from Japan had been severely restricted in 1908 and entirely prohibited in 1924. Japanese immigrants were barred from American citizenship, although their children born here were citizens by birth. California and the other western states prohibited Japanese immigrants from owning land. In part the hostility was economic, emerging in various white American groups who began to feel competition, particularly in agriculture, the principal occupation of the immigrants. The anti-Japanese agitation also fed on racial stereotypes and fears: the "yellow peril" of an unknown Asian culture achieving substantial influence on the Pacific Coast or of a Japanese population alleged to be growing far faster than the white population. This agitation and hostility persisted, even though the ethnic Japanese never exceeded three percent of the population of California, the state of greatest concentration.

The ethnic Japanese, small in number and with no political voice—the citizen generation was just reaching voting age in 1940—had become a convenient target for political demagogues, and over the years all the major parties indulged in anti-Japanese rhetoric and programs. Political bullying was supported by organized interest groups who adopted anti-Japanese agitation as a consistent part of their program: the Native Sons and Daughters of the Golden West, the Joint Immigration Committee, the American Legion, the California State Federation of Labor and the California State Grange.

This agitation attacked a number of ethnic Japanese cultural traits or patterns which were woven into a bogus theory that the ethnic Japanese could not or would not assimilate or become "American." Dual citizenship, Shinto, Japanese language schools, and the education of many ethnic Japanese children in Japan were all used as evidence. But as a matter of fact, Japan's laws on dual citizenship went no further than those of many European countries in claiming the allegiance of the children of its nationals born abroad. Only a small number of ethnic

Japanese subscribed to Shinto, which in some forms included veneration of the Emperor. The language schools were not unlike those of other first-generation immigrants, and the return of some children to Japan for education was as much a reaction to hostile discrimination and an uncertain future as it was a commitment to the mores, much less the political doctrines, of Japan. Nevertheless, in 1942 these popular misconceptions infected the views of a great many West Coast people who viewed the ethnic Japanese as alien and unassimilated.

Second, Japanese armies in the Pacific won a rapid, startling string of victories against the United States and its allies in the first months of World War II. On the same day as the attack on Pearl Harbor, the Japanese struck the Malay Peninsula, Hong Kong, Wake and Midway Islands and attacked the Philippines. The next day the Japanese Army invaded Thailand. On December 13 Guam fell; on December 24 and 25 the Japanese captured Wake Island and occupied Hong Kong. Manila was evacuated on December 27, and the American army retreated to the Bataan Peninsula. After three months the troops isolated in the Philippines were forced to surrender unconditionally—the worst American defeat since the Civil War. In January and February 1942, the military position of the United States in the Pacific was perilous. There was fear of Japanese attacks on the West Coast.

Next, contrary to the facts, there was a widespread belief, supported by a statement by Frank Knox, Secretary of the Navy, that the Pearl Harbor attack had been aided by sabotage and fifth column activity by ethnic Japanese in Hawaii. Shortly after Pearl Harbor the government knew that this was not true, but took no effective measures to disabuse public belief that disloyalty had contributed to massive American losses on December 7, 1941. Thus the country was unfairly led to believe that both American citizens of Japanese descent and resident Japanese aliens threatened American security.

Fourth, as anti-Japanese organizations began to speak out and rumors from Hawaii spread, West Coast politicians quickly took up the familiar anti-Japanese cry. The Congressional delegations in Washington organized themselves and pressed the War and Justice Departments and the President for stern measures to control the ethnic Japanese—moving quickly from control of aliens to evacuation and removal of citizens. In California, Governor Olson, Attorney General Warren, Mayor Bowron of Los Angeles and many local authorities joined the clamor. These opinions were not informed by any knowledge of actual military risks, rather they were stoked by virulent agitation which encountered little opposition. Only a few churchmen and aca-

demicians were prepared to defend the ethnic Japanese. There was little or no political risk in claiming that it was "better to be safe than sorry" and, as many did, that the best way for ethnic Japanese to prove their loyalty was to volunteer to enter detention. The press amplified the unreflective emotional excitement of the hour. Through late January and early February 1942, the rising clamor from the West Coast was heard within the federal government as its demands became more draconian.

Making and Justifying the Decision. The exclusion of the ethnic Japanese from the West Coast was recommended to the Secretary of War, Henry L. Stimson, by Lieutenant General John L. DeWitt, Commanding General of the Western Defense Command with responsibility for West Coast security. President Roosevelt relied on Secretary Stimson's recommendations in issuing Executive Order 9066.

The justification given for the measure was military necessity. The claim of military necessity is most clearly set out in three places: General DeWitt's February 14, 1942, recommendation to Secretary Stimson for exclusion; General DeWitt's *Final Report: Japanese Evacuation from the West Coast, 1942*; and the government's brief in the Supreme Court defending the Executive Order in *Hirabayashi v. United States*. General DeWitt's February 1942 recommendation presented the following rationale for the exclusion:

In the war in which we are now engaged 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. To conclude otherwise is to expect that children born of white parents on Japanese soil sever all racial affinity and become loyal Japanese subjects, ready to fight and, if necessary, to die for Japan in a war against the nation of their parents. That Japan is allied with Germany and Italy in this struggle is no ground for assuming that any Japanese, barred from assimilation by convention as he is, though born and raised in the United States, will not turn against this nation when the final test of loyalty comes. It, therefore, follows that along the vital Pacific Coast over 112,000 potential enemies, of Japanese extraction, are at large today. There are indications that these were organized and ready for concerted action at a favorable opportunity. The very fact that no sabotage has taken place to date is a disturbing and confirming indication that such action will be taken.

There are two unfounded justifications for exclusion expressed here: first, that ethnicity ultimately determines loyalty; second, that

"indications" suggest that ethnic Japanese "are organized and ready for concerted action"—the best argument for this being the fact that it hadn't happened.

The first evaluation is not a military one but one for sociologists or historians. It runs counter to a basic premise on which the American nation of immigrants is built—that loyalty to the United States is a matter of individual choice and not determined by ties to an ancestral country. In the case of German Americans, the First World War demonstrated that race did not determine loyalty, and no negative assumption was made with regard to citizens of German or Italian descent during the Second World War. The second judgment was, by the General's own admission, unsupported by any evidence. General DeWitt's recommendation clearly does not provide a credible rationale, based on military expertise, for the necessity of exclusion.

In his 1943 *Final Report*, General DeWitt cited a number of factors in support of the exclusion decision: signaling from shore to enemy submarines; arms and contraband found by the FBI during raids on ethnic Japanese homes and businesses; dangers to the ethnic Japanese from vigilantes; concentration of ethnic Japanese around or near militarily sensitive areas; the number of Japanese ethnic organizations on the coast which might shelter pro-Japanese attitudes or activities such as Emperor-worshipping Shinto; and the presence of the Kibei, who had spent some time in Japan.

The first two items point to demonstrable military danger. But the reports of shore-to-ship signaling were investigated by the Federal Communications Commission, the agency with relevant expertise, and no identifiable cases of such signaling were substantiated. The FBI did confiscate arms and contraband from some ethnic Japanese, but most were items normally in the possession of any law-abiding civilian, and the FBI concluded that these searches had uncovered no dangerous persons that "we could not otherwise know about." Thus neither of these "facts" militarily justified exclusion.

There had been some acts of violence against ethnic Japanese on the West Coast and feeling against them ran high, but "protective custody" is not an acceptable rationale for exclusion. Protection against vigilantes is a civilian matter that would involve the military only in extreme cases. But there is no evidence that such extremity had been reached on the West Coast in early 1942. Moreover, "protective custody" could never justify exclusion and detention for months and years.

General DeWitt's remaining points are repeated in the *Hirabayashi* brief, which also emphasizes dual nationality, Japanese language

schools and the high percentage of aliens (who, by law, had been barred from acquiring American citizenship) in the ethnic population. These facts represent broad social judgments of little or no military significance in themselves. None supports the claim of disloyalty to the United States and all were entirely legal. If the same standards were applied to other ethnic groups, as Morton Grodzins, an early analyst of the exclusion decision, applied it to ethnic Italians on the West Coast, an equally compelling and meaningless case for "disloyalty" could be made. In short, these social and cultural patterns were not evidence of any threat to West Coast military security.

In sum, the record does not permit the conclusion that military necessity warranted the exclusion of ethnic Japanese from the West Coast.

The Conditions Which Permitted the Decision. Having concluded that no military necessity supported the exclusion, the Commission has attempted to determine how the decision came to be made.

First, General DeWitt apparently believed what he told Secretary Stimson: ethnicity determined loyalty. Moreover, he believed that the ethnic Japanese were so alien to the thought processes of white Americans that it was impossible to distinguish the loyal from the disloyal. On this basis he believed them to be potential enemies among whom loyalty could not be determined.

Second, the FBI and members of Naval Intelligence who had relevant intelligence responsibility were ignored when they stated that nothing more than careful watching of suspicious individuals or individual reviews of loyalty were called for by existing circumstances. In addition, the opinions of the Army General Staff that no sustained Japanese attack on the West Coast was possible were ignored.

Third, General DeWitt relied heavily on civilian politicians rather than informed military judgments in reaching his conclusions as to what actions were necessary, and civilian politicians largely repeated the prejudiced, unfounded themes of anti-Japanese factions and interest groups on the West Coast.

Fourth, no effective measures were taken by President Roosevelt to calm the West Coast public and refute the rumors of sabotage and fifth column activity at Pearl Harbor.

Fifth, General DeWitt was temperamentally disposed to exaggerate the measures necessary to maintain security and placed security far ahead of any concern for the liberty of citizens.

Sixth, Secretary Stimson and John J. McCloy, Assistant Secretary of War, both of whose views on race differed from those of General

DeWitt, failed to insist on a clear military justification for the measures General DeWitt wished to undertake.

Seventh, Attorney General Francis Biddle, while contending that exclusion was unnecessary, did not argue to the President that failure to make out a case of military necessity on the facts would render the exclusion constitutionally impermissible or that the Constitution prohibited exclusion on the basis of ethnicity given the facts on the West Coast.

Eighth, those representing the interests of civil rights and civil liberties in Congress, the press and other public forums were silent or indeed supported exclusion. Thus there was no effective opposition to the measures vociferously sought by numerous West Coast interest groups, politicians and journalists.

Finally, President Roosevelt, without raising the question to the level of Cabinet discussion or requiring any careful or thorough review of the situation, and despite the Attorney General's arguments and other information before him, agreed with Secretary Stimson that the exclusion should be carried out.

The Decision to Detain

With the signing of Executive Order 9066, the course of the President and the War Department was set: American citizens and alien residents of Japanese ancestry would be compelled to leave the West Coast on the basis of wartime military necessity. For the War Department and the Western Defense Command, the problem became primarily one of method and operation, not basic policy. General DeWitt first tried "voluntary" resettlement: the ethnic Japanese were to move outside restricted military zones of the West Coast but otherwise were free to go wherever they chose. From a military standpoint this policy was bizarre, and it was utterly impractical. If the ethnic Japanese had been excluded because they were potential saboteurs and spies, any such danger was not extinguished by leaving them at large in the interior where there were, of course, innumerable dams, power lines, bridges and war industries to be disrupted or spied upon. Conceivably sabotage in the interior could be synchronized with a Japanese raid or invasion for a powerful fifth column effect. This raises serious doubts as to how grave the War Department believed the supposed threat to be. Indeed, the implications were not lost on the citizens and politicians of the interior western states, who objected in the belief that people who threatened wartime security in California were equally dangerous in Wyoming and Idaho.

The War Relocation Authority (WRA), the civilian agency created by the President to supervise the relocation and initially directed by Milton Eisenhower, proceeded on the premise that the vast majority of evacuees were law-abiding and loyal, and that, once off the West Coast, they should be returned quickly to conditions approximating normal life. This view was strenuously opposed by the people and politicians of the mountain states. In April 1942, Milton Eisenhower met with the governors and officials of the mountain states. They objected to California using the interior states as a "dumping ground" for a California "problem." They argued that people in their states were so bitter over the voluntary evacuation that unguarded evacuees would face physical danger. They wanted guarantees that the government would forbid evacuees to acquire land and that it would remove them at the end of the war. Again and again, detention camps for evacuees were urged. The consensus was that a plan for reception centers was acceptable so long as the evacuees remained under guard within the centers.

In the circumstances, Milton Eisenhower decided that the plan to move the evacuees into private employment would be abandoned, at least temporarily. The War Relocation Authority dropped resettlement and adopted confinement. Notwithstanding WRA's belief that evacuees should be returned to normal productive life, it had, in effect, become their jailer. The politicians of the interior states had achieved the program of detention.

The evacuees were to be held in camps behind barbed wire and released only with government approval. For this course of action no military justification was proffered. Instead, the WRA contended that these steps were necessary for the benefit of evacuees and that controls on their departure were designed to assure they would not be mistreated by other Americans on leaving the camps.

It follows from the conclusion that there was no justification in military necessity for the exclusion, that there was no basis for the detention.

The Effect of the Exclusion and Detention

The history of the relocation camps and the assembly centers that preceded them is one of suffering and deprivation visited on people against whom no charges were, or could have been, brought. The Commission hearing record is full of poignant, searing testimony that recounts the economic and personal losses and injury caused by the

exclusion and the deprivations of detention. No summary can do this testimony justice.

Families could take to the assembly centers and the camps only what they could carry. Camp living conditions were Spartan. People were housed in tar-papered barrack rooms of no more than 20 by 24 feet. Each room housed a family, regardless of family size. Construction was often shoddy. Privacy was practically impossible and furnishings were minimal. Eating and bathing were in mass facilities. Under continuing pressure from those who blindly held to the belief that evacuees harbored disloyal intentions, the wages paid for work at the camps were kept to the minimal level of \$12 a month for unskilled labor, rising to \$19 a month for professional employees. Mass living prevented normal family communication and activities. Heads of families, no longer providing food and shelter, found their authority to lead and to discipline diminished.

The normal functions of community life continued but almost always under a handicap—doctors were in short supply; schools which taught typing had no typewriters and worked from hand-me-down school books; there were not enough jobs.

The camp experience carried a stigma that no other Americans suffered. The evacuees themselves expressed the indignity of their conditions with particular power:

On May 16, 1942, my mother, two sisters, niece, nephew, and I left . . . by train. Father joined us later. Brother left earlier by bus. We took whatever we could carry. So much we left behind, but the most valuable thing I lost was my freedom.

* * *

Henry went to the Control Station to register the family. He came home with twenty tags, all numbered 10710, tags to be attached to each piece of baggage, and one to hang from our coat lapels. From then on, we were known as Family #10710.

The government's efforts to "Americanize" the children in the camps were bitterly ironic:

An oft-repeated ritual in relocation camp schools . . . was the salute to the flag followed by the singing of "My country, 'tis of thee, sweet land of liberty"—a ceremony Caucasian teachers found embarrassingly awkward if not cruelly poignant in the austere prison-camp setting.

* * *

In some ways, I suppose, my life was not too different from a lot of kids in America between the years 1942 and 1945. I spent a good part of my time playing with my brothers and friends, learned to shoot marbles, watched sandlot baseball and envied the older kids who wore Boy Scout uniforms. We shared with the rest of America the same movies, screen heroes and listened to the same heart-rending songs of the forties. We imported much of America into the camps because, after all, we were Americans. Through imitation of my brothers, who attended grade school within the camp, I learned the salute to the flag by the time I was five years old. I was learning, as best one could learn in Manzanar, what it meant to live in America. But, I was also learning the sometimes bitter price one has to pay for it.

After the war, through the Japanese American Evacuation Claims Act, the government attempted to compensate for the losses of real and personal property; inevitably that effort did not secure full or fair compensation. There were many kinds of injury the Evacuation Claims Act made no attempt to compensate: the stigma placed on people who fell under the exclusion and relocation orders; the deprivation of liberty suffered during detention; the psychological impact of exclusion and relocation; the breakdown of family structure; the loss of earnings or profits; physical injury or illness during detention.

The Decision to End Detention

By October 1942, the government held over 100,000 evacuees in relocation camps. After the tide of war turned with the American victory at Midway in June 1942, the possibility of serious Japanese attack was no longer credible; detention and exclusion became increasingly difficult to defend. Nevertheless, other than an ineffective leave program run by the War Relocation Authority, the government had no plans to remedy the situation and no means of distinguishing the loyal from the disloyal. Total control of these civilians in the presumed interest of state security was rapidly becoming the accepted norm.

Determining the basis on which detention would be ended required the government to focus on the justification for controlling the ethnic Japanese. If the government took the position that race determined loyalty or that it was impossible to distinguish the loyal from the disloyal because "Japanese" patterns of thought and behavior were too alien to white Americans, there would be little incentive to end detention. If the government maintained the position that distinguishing the loyal from the disloyal was possible and that exclusion and detention were required only by the necessity of acting quickly under

the threat of Japanese attack in early 1942, then a program to release those considered loyal should have been instituted in the spring of 1942 when people were confined in the assembly centers.

Neither position totally prevailed. General DeWitt and the Western Defense Command took the first position and opposed any review that would determine loyalty or threaten continued exclusion from the West Coast. Thus, there was no loyalty review during the assembly center period. Secretary Stimson and Assistant Secretary McCloy took the second view, but did not act on it until the end of 1942 and then only in a limited manner. At the end of 1942, over General DeWitt's opposition, Secretary Stimson, Assistant Secretary McCloy and General George C. Marshall, Chief of Staff, decided to establish a volunteer combat team of Nisei soldiers. The volunteers were to come from those who had passed a loyalty review. To avoid the obvious unfairness of allowing only those joining the military to establish their loyalty and leave the camps, the War Department joined WRA in expanding the loyalty review program to all adult evacuees.

This program was significant, but remained a compromise. It provided an opportunity to demonstrate loyalty to the United States on the battlefields; despite the human sacrifice involved, this was of immense practical importance in obtaining postwar acceptance for the ethnic Japanese. It opened the gates of the camps for some and began some reestablishment of normal life. But, with no apparent rationale or justification, it did not end exclusion of the loyal from the West Coast. The review program did not extend the presumption of loyalty to American citizens of Japanese descent, who were subject to an investigation and review not applied to other ethnic groups.

Equally important, although the loyalty review program was the first major government decision in which the interests of evacuees prevailed, the program was conducted so insensitively, with such lack of understanding of the evacuees' circumstances, that it became one of the most divisive and wrenching episodes of the camp detention.

After almost a year of what the evacuees considered utterly unjust treatment at the hands of the government, the loyalty review program began with filling out a questionnaire which posed two questions requiring declarations of complete loyalty to the United States. Thus, the questionnaire demanded a personal expression of position from each evacuee—a choice between faith in one's future in America and outrage at present injustice. Understandably most evacuees probably had deeply ambiguous feelings about a government whose rhetorical values of liberty and equality they wished to believe, but who found

their present treatment in painful contradiction to those values. The loyalty questionnaire left little room to express that ambiguity. Indeed, it provided an effective point of protest and organization against the government, from which more and more evacuees felt alienated. The questionnaire finally addressed the central question of loyalty that underlay the exclusion policy, a question which had been the predominant political and personal issue for the ethnic Japanese over the past year; answering it required confronting the conflicting emotions aroused by their relation to the government. Evacuee testimony shows the intensity of conflicting emotions:

I answered both questions number 27 and 28 [the loyalty questions] in the negative, not because of disloyalty but due to the disgusting and shabby treatment given us. A few months after completing the questionnaire, U.S. Army officers appeared at our camp and gave us an interview to confirm our answers to the questions 27 and 28, and followed up with a question that in essence asked: "Are you going to give up or renounce your U.S. citizenship?" to which I promptly replied in the affirmative as a rebellious move. Sometime after the interview, a form letter from the Immigration and Naturalization Service arrived saying if I wanted to renounce my U.S. citizenship, sign the form letter and return. Well, I kept the Immigration and Naturalization Service waiting.

* * *

Well, I am one of those that said "no, no" on it, one of the "no, no" boys, and it is not that I was proud about it, it was just that our legal rights were violated and I wanted to fight back. However, I didn't want to take this sitting down. I was really angry. It just got me so damned mad. Whatever we do, there was no help from outside, and it seems to me that we are a race that doesn't count. So therefore, this was one of the reasons for the "no, no" answer.

Personal responses to the questionnaire inescapably became public acts open to community debate and scrutiny within the closed world of the camps. This made difficult choices excruciating:

After I volunteered for the [military] service, some people that I knew refused to speak to me. Some older people later questioned my father for letting me volunteer, but he told them that I was old enough to make up my own mind.

* * *

The resulting infighting, beatings, and verbal abuses left families torn apart, parents against children, brothers against sisters, rel-

atives against relatives, and friends against friends. So bitter was all this that even to this day, there are many amongst us who do not speak about that period for fear that the same harsh feelings might arise up again to the surface.

The loyalty review program was a point of decision and division for those in the camps. The avowedly loyal were eligible for release; those who were unwilling to profess loyalty or whom the government distrusted were segregated from the main body of evacuees into the Tule Lake camp, which rapidly became a center of disaffection and protest against the government and its policies—the unhappy refuge of evacuees consumed by anger and despair.

The Decision to End Exclusion

The loyalty review should logically have led to the conclusion that no justification existed for excluding loyal American citizens from the West Coast. Secretary Stimson, Assistant Secretary McCloy and General Marshall reached this position in the spring of 1943. Nevertheless, the exclusion was not ended until December 1944. No plausible reason connected to any wartime security has been offered for this eighteen to twenty month delay in allowing the ethnic Japanese to return to their homes, jobs and businesses on the West Coast, despite the fact that the delay meant, as a practical matter, that confinement in the relocation camps continued for the great majority of evacuees for another year and a half.

Between May 1943 and May 1944, War Department officials did not make public their opinion that exclusion of loyal ethnic Japanese from the West Coast no longer had any military justification. If the President was unaware of this view, the plausible explanation is that Secretary Stimson and Assistant Secretary McCloy were unwilling, or believed themselves unable, to face down political opposition on the West Coast. General DeWitt repeatedly expressed opposition until he left the Western Defense Command in the fall of 1943, as did West Coast anti-Japanese factions and politicians.

In May 1944 Secretary Stimson put before President Roosevelt and the Cabinet his position that the exclusion no longer had a military justification. But the President was unwilling to act to end the exclusion until the first Cabinet meeting following the Presidential election of November 1944. The inescapable conclusion from this factual pattern is that the delay was motivated by political considerations.

By the participants' own accounts, there is no rational explanation for maintaining the exclusion of loyal ethnic Japanese from the West

Coast for the eighteen months after May 1943—except political pressure and fear. Certainly there was no justification arising out of military necessity.

The Comparisons

To either side of the Commission's account of the exclusion, removal and detention, there is a version argued by various witnesses that makes a radically different analysis of the events. Some contend that, forty years later, we cannot recreate the atmosphere and events of 1942 and that the extreme measures taken then were solely to protect the nation's safety when there was no reasonable alternative. Others see in these events only the animus of racial hatred directed toward people whose skin was not white. Events in Hawaii in World War II and the historical treatment of Germans and German Americans shows that neither analysis is satisfactory.

Hawaii. When Japan attacked Pearl Harbor, nearly 158,000 persons of Japanese ancestry lived in Hawaii—more than 35 percent of the population. Surely, if there were dangers from espionage, sabotage and fifth column activity by American citizens and resident aliens of Japanese ancestry, danger would be greatest in Hawaii, and one would anticipate that the most swift and severe measures would be taken there. But nothing of the sort happened. Less than 2,000 ethnic Japanese in Hawaii were taken into custody during the war—barely one percent of the population of Japanese descent. Many factors contributed to this reaction.

Hawaii was more ethnically mixed and racially tolerant than the West Coast. Race relations in Hawaii before the war were not infected with the same virulent antagonism of 75 years of agitation. While anti-Asian feeling existed in the territory, it did not represent the longtime views of well-organized groups as it did on the West Coast and, without statehood, xenophobia had no effective voice in the Congress.

The larger population of ethnic Japanese in Hawaii was also a factor. It is one thing to vent frustration and historical prejudice on a scant two percent of the population; it is very different to disrupt a local economy and tear a social fabric by locking up more than one-third of a territory's people. And in Hawaii the half-measure of exclusion from military areas would have been meaningless.

In large social terms, the Army had much greater control of day-to-day events in Hawaii. Martial law was declared in December 1941, suspending the writ of habeas corpus, so that through the critical first

months of the war, the military's recognized power to deal with any emergency was far greater than on the West Coast.

Individuals were also significant in the Hawaiian equation. The War Department gave great discretion to the commanding general of each defense area and this brought to bear very different attitudes toward persons of Japanese ancestry in Hawaii and on the West Coast. The commanding general in Hawaii, Delos Emmons, restrained plans to take radical measures, raising practical problems of labor shortages and transportation until the pressure to evacuate the Hawaiian Islands subsided. General Emmons does not appear to have been a man of dogmatic racial views; he appears to have argued quietly but consistently for treating the ethnic Japanese as loyal to the United States, absent evidence to the contrary.

This policy was clearly much more congruent with basic American law and values. It was also a much sounder policy in practice. The remarkably high rate of enlistment in the Army in Hawaii is in sharp contrast to the doubt and alienation that marred the recruitment of Army volunteers in the relocation camps. The wartime experience in Hawaii left behind neither the extensive economic losses and injury suffered on the mainland nor the psychological burden of the direct experience of unjust exclusion and detention.

The German Americans. The German American experience in the First World War was far less traumatic and damaging than that of the ethnic Japanese in the Second World War, but it underscores the power of war fears and war hysteria to produce irrational but emotionally powerful reactions to people whose ethnicity links them to the enemy.

There were obvious differences between the position of people of German descent in the United States in 1917 and the ethnic Japanese at the start of the Second World War. In 1917, more than 8,000,000 people in the United States had been born in Germany or had one or both parents born there. Although German Americans were not massively represented politically, their numbers gave them notable political strength and support from political spokesmen outside the ethnic group.

The history of the First World War bears a suggestive resemblance to the events of 1942: rumors in the press of sabotage and espionage, use of a stereotype of the German as an unassimilable and rapacious Hun, followed by an effort to suppress those institutions—the language, the press and the churches—that were most palpably foreign and perceived as the seedbed of Kaiserism. There were numerous examples of official and quasi-governmental harassment and fruitless investiga-

tion of German Americans and resident German aliens. This history is made even more disturbing by the absence of an extensive history of anti-German agitation before the war.

* * *

The promulgation of Executive Order 9066 was not justified by military necessity, and the decisions which followed from it—detention, ending detention and ending exclusion—were not driven by analysis of military conditions. The broad historical causes which shaped these decisions were race prejudice, war hysteria and a failure of political leadership. Widespread ignorance of Japanese Americans contributed to a policy conceived in haste and executed in an atmosphere of fear and anger at Japan. A grave injustice was done to American citizens and resident aliens of Japanese ancestry who, without individual review or any probative evidence against them, were excluded, removed and detained by the United States during World War II.

In memoirs and other statements after the war, many of those involved in the exclusion, removal and detention passed judgment on those events. While believing in the context of the time that evacuation was a legitimate exercise of the war powers, Henry L. Stimson recognized that "to loyal citizens this forced evacuation was a personal injustice." In his autobiography, Francis Biddle reiterated his beliefs at the time: "the program was ill-advised, unnecessary and unnecessarily cruel." Justice William O. Douglas, who joined the majority opinion in *Korematsu* which held the evacuation constitutionally permissible, found that the evacuation case "was ever on my conscience." Milton Eisenhower described the evacuation to the relocation camps as "an inhuman mistake." Chief Justice Earl Warren, who had urged evacuation as Attorney General of California, stated, "I have since deeply regretted the removal order and my own testimony advocating it, because it was not in keeping with our American concept of freedom and the rights of citizens." Justice Tom C. Clark, who had been liaison between the Justice Department and the Western Defense Command, concluded, "Looking back on it today [the evacuation] was, of course, a mistake."

PART II: THE ALEUTS

During the struggle for naval supremacy in the Pacific in World War II, the Aleutian Islands were strategically valuable to both the United

States and Japan. Beginning in March 1942, United States military intelligence repeatedly warned Alaska defense commanders that Japanese aggression into the Aleutian Islands was imminent. In June 1942, the Japanese attacked and held the two westernmost Aleutians, Kiska and Attu. These islands remained in Japanese hands until July and August 1943. During the Japanese offensive in June 1942, American military commanders in Alaska ordered the evacuation of the Aleuts from many islands to places of relative safety. The government placed the evacuees in camps in southeast Alaska where they remained in deplorable conditions until being allowed to return to their islands in 1944 and 1945.

The Evacuation

The military had anticipated a possible Japanese attack for some time before June 1942. The question of what should be done to provide security for the Aleuts lay primarily with the civilians who reported to the Secretary of the Interior: the Office of Indian Affairs, the Fish and Wildlife Service and the territorial governor. They were unable to agree upon a course of action—evacuation and relocation to avoid the risks of war, or leaving the Aleuts on their islands on the ground that subsistence on the islands would disrupt Aleut life less than relocation. The civilian authorities were engaged in consulting with the military and the Aleuts when the Japanese attacked.

At this point the military hurriedly stepped in and commenced evacuation in the midst of a rapidly developing military situation. On June 3, 1942, the Japanese bombed the strategic American base at Dutch Harbor in the Aleutians; as part of the response a U.S. ship evacuated most of the island of Atka, burning the Aleut village to prevent its use by Japanese troops, and Navy planes picked up the rest of the islanders a few days later.

In anticipation of a possible attack, the Pribilof Islands were also evacuated by the Navy in early June. In early July, the Aleut villages of Nikolski on Umnak Island, and Makushin, Biorka, Chernofski, Kash-ega and Unalaska on Unalaska Island, and Akutan on Akutan Island were evacuated in a sweep eastward from Atka to Akutan.

At that point, the Navy decided that no further evacuation of Aleut villages east of Akutan Island was needed. Eight hundred seventy-six Aleuts had been evacuated from Aleut villages west of Unimak Island, including the Pribilofs. Except in Unalaska the entire population of each village was evacuated, including at least 30 non-Aleuts. All of the Aleuts were relocated to southeastern Alaska except 50 persons who

were either evacuated to the Seattle area or hospitalized in the Indian Hospital at Tacoma, Washington.

The evacuation of the Aleuts had a rational basis as a precaution to ensure their safety. The Aleuts were evacuated from an active theatre of war; indeed, 42 were taken prisoner on Attu by the Japanese. It was clearly the military's belief that evacuation of non-military personnel was advisable. The families of military personnel were evacuated first, and when Aleut communities were evacuated the white teachers and government employees on the islands were evacuated with them. Exceptions to total evacuation appear to have been made only for people directly employed in war-related work.

The Aleuts' Camps

Aleuts were subjected to deplorable conditions following the evacuation. Typical housing was an abandoned gold mine or fish cannery buildings which were inadequate in both accommodation and sanitation. Lack of medical care contributed to extensive disease and death.

Conditions at the Funter Bay cannery in southeastern Alaska, where 300 Aleuts were placed, provide a graphic impression of one of the worst camps. Many buildings had not been occupied for a dozen years and were used only for storage. They were inadequate, particularly for winter use. The majority of evacuees were forced to live in two dormitory-style buildings in groups of six to thirteen people in areas nine to ten feet square. Until fall, many Aleuts were forced to sleep in relays because of lack of space. The quarters were as rundown as they were cramped. As one contemporary account reported:

The only buildings that are capable of fixing is the two large places where the natives are sleeping. All other houses are absolutely gone from rot. It will be almost impossible to put toilet and bath into any of them except this one we are using as a mess hall and it leaks in thirty places. . . . No brooms, soap or mops or brushes to keep the place suitable for pigs to stay in.

People fell through rotten wooden floors. One toilet on the beach just above the low water mark served ninety percent of the evacuees. Clothes were laundered on the ground or sidewalks.

Health conditions at Funter Bay were described in 1943 by a doctor from the Territorial Department of Health who inspected the camp:

As we entered the first bunkhouse the odor of human excreta and waste was so pungent that I could hardly make the grade. . . . The buildings were in total darkness except for a few candles here

and there [which] I considered distinct fire hazards. . . . [A] mother and as many as three or four children were found in several beds and two or three children in one bunk. . . . The garbage cans were overflowing, human excreta was found next to the doors of the cabins and the drainage boxes into which dishwater and kitchen waste was to be placed were filthy beyond description. . . . I realize that during the first two days we saw the community at its worst. I know that there were very few adults who were well. . . . The water supply is discolored, contaminated and unattractive. . . . [F]acilities for boiling and cooling the water are not readily available. . . . I noticed some lack of the teaching of basic public health fundamentals. Work with such a small group of people who had been wards of the government for a long period of time should have brought better results. It is strange that they could have reverted from a state of thrift and cleanliness on the Islands to the present state of filth, despair, and complete lack of civic pride. I realize, too, that at the time I saw them the community was largely made up of women and children whose husbands were not with them. With proper facilities for leadership, guidance and stimulation . . . the situation could have been quite different.

In the fall of 1942, the only fulltime medical care at Funter Bay was provided by two nurses who served both the cannery camp and a camp at a mine across Funter Bay. Doctors were only temporarily assigned to the camp, often remaining for only a few days or weeks. The infirmary at the mining camp was a three-room bungalow; at the cannery, it was a room twenty feet square. Medical supplies were scarce.

Epidemics raged throughout the Aleuts' stay in southeastern Alaska; they suffered from influenza, measles, and pneumonia along with tuberculosis. Twenty-five died at Funter Bay in 1943 alone, and it is estimated that probably ten percent of the evacuated Aleuts died during their two or three year stay in southeastern Alaska.

To these inadequate conditions was added the isolation of the camp sites, where climatic and geographic conditions were very unlike the Aleutians. No employment meant debilitating idleness. It was prompted in part by government efforts to keep the Pribilovians, at least, together so that they might be returned to harvest the fur seals, an enterprise economically valuable to the government. Indeed a group of Pribilovians were taken back to their islands in the middle of the evacuation period for the purpose of seal harvesting.

The standard of care which the government owes to those within its care was clearly violated by this treatment, which brought great suffering and loss of life to the Aleuts.

Return to the Islands

The Aleuts were only slowly returned to their islands. The Pribilovians were able to get back to the Pribilofs by the late spring of 1944, nine months after the Japanese had been driven out of the Aleutian chain. The return to the Aleutians themselves did not take place for another year. Some of this delay may be fairly attributed to transport shortage and problems of supplying the islands with housing and food so that normal life could resume. But the government's record, especially in the Aleutians, reflects an indifference and lack of urgency that lengthened the long delay in taking the Aleuts home. Some Aleuts were not permitted to return to their homes; to this day, Attuans continue to be excluded from their ancestral lands.

The Aleuts returned to communities which had been vandalized and looted by the military forces. Rehabilitation assessments were made for each village; the reports on Unalaska are typical:

All buildings were damaged due to lack of normal care and upkeep. . . . The furnishings, clothing and personal effects, remaining in the homes showed, with few exceptions, evidence of weather damage and damage by rats. Inspection of contents revealed extensive evidence of widespread wanton destruction of property and vandalism. Contents of closed packing boxes, trunks and cupboards had been ransacked. Clothing had been scattered over floors, trampled and fouled. Dishes, furniture, stoves, radios, phonographs, books, and other items had been broken or damaged. Many items listed on inventories furnished by the occupants of the houses were entirely missing. . . . It appears that armed forces personnel and civilians alike have been responsible for this vandalism and that it occurred over a period of many months.

Perhaps the greatest loss to personal property occurred at the time the Army conducted its clean up of the village in June of 1943. Large numbers of soldiers were in the area at that time removing rubbish and outbuildings and many houses were entered unofficially and souvenirs and other articles were taken.

When they first returned to the islands, many Aleuts were forced to camp because their former homes (those that still stood) had not yet been repaired and many were now uninhabitable. The Aleuts rebuilt their homes themselves. They were "paid" with free groceries until their homes were repaired; food, building and repair supplies were procured locally, mostly from military surplus.

The Aleuts suffered material losses from the government's occupation of the islands for which they were never fully recompensed, in cash or in kind. Devout followers of the Russian Orthodox faith, Aleuts treasured the religious icons from czarist Russia and other family heir-

looms that were their most significant spiritual as well as material losses. They cannot be replaced. In addition, possessions such as houses, furniture, boats, and fishing gear were either never replaced or replaced by markedly inferior goods.

In sum, despite the fact that the Aleutians were a theatre of war from which evacuation was a sound policy, there was no justification for the manner in which the Aleuts were treated in the camps in southeastern Alaska, nor for failing to compensate them fully for their material losses.

OFFICE OF U.S. SENATOR ALAN CRANSTON
112 Hart Senate Office Building, Washington, D.C. 20510

Press Contact: Murray S. Flander
Office Phone: 202/ 224-5596

FOR IMMEDIATE RELEASE

July 27, 1983

Following is testimony by Senator Alan Cranston (D., Calif.) on S. 1520, the World War II Civil Liberties Violations Redress Act, before the Senate Judiciary Subcommittee on Administrative Practice and Procedure.

Mr. Chairman,

I'm delighted to testify today in support of S. 1520, the World War II Civil Liberties Violations Redress Act, which Senator Kennedy and I introduced. Let me just add a personal note of thanks to you for your prompt action in holding these hearings.

I know of your genuine concern about these historic mass violations of Americans' civil liberties.

I hope the Subcommittee will move this legislation forward promptly.

More than two-thirds of the internees were American citizens. The rest were legal U. S. residents, many of whom were then prohibited by law from becoming citizens despite long residence in our country.

--Without justification, they were held collectively guilty and they were collectively punished.

--Our government, solely on the basis of Japanese ancestry, excluded these Americans from their homes, their businesses and their communities without reviewing individual cases or providing due process of law.

--Japanese heritage in loyal American citizens was believed enough to warrant removal and exclusion from places they otherwise had a right to be.

--Not a single documented act of espionage, sabotage or fifth column activity was committed by the Nisei or by the resident Japanese aliens on the West Coast. Yet their lives were disrupted, fortunes were lost, farms and businesses were abandoned, and their freedom was denied.

--Many Japanese Americans were held until December 1944, nearly three years after the unwarranted exclusion order and more than 18 months after officials acknowledged no military justification existed for continuing the policy.

.....
These are the facts reported to Congress by the Commission on Wartime Relocation and Internment of Civilians.

(more)

As Senator from California, I'm naturally concerned because seventy percent of the people affected by this legislation now reside in California. But my personal involvement in seeking justice for these Americans of Japanese descent dates back to the very beginning.

Shortly after Pearl Harbor, I was assigned to the Office of War Information. I worked closely with Eleanor Roosevelt, Archibald MacLeish, and then-Attorney General Francis Biddle in trying to dissuade President Roosevelt from forcefully evacuating American citizens and legal residents of Japanese descent from their homes on the West Coast and interning them in so-called relocation camps.

Later, after the internment process began, I visited two of these camps. I spent my time round-the-clock inside barbed wire fences talking to internees many of whom were boyhood friends from Los Altos. These were people with whom I had learned the Pledge of Allegiance, the Star Spangled Banner and America the Beautiful. Their loyalty to this nation was unquestionable.

My friends and former classmates justifiably found themselves robbed of their citizenship. It was ironic to see American Nisei soldiers, home on furlough and clad in uniform, wandering around inside the fenced-in camp. These soldiers later returned from the battlefields of Europe as the most distinguished and decorated combat unit of the war, and some served in the Pacific theatre as loyal soldiers and officers in military intelligence. Yet their families were forced from their homes into these camps.

I have never forgotten these impressions.

I've always believed that our government's action violated the very ideals for which our Nation stands and for which it fought so dearly in World War II.

This action was never justified by military necessity. And it was never imposed on Americans of Italian or German descent.

The bill which Senator Kennedy and I recently introduced is an attempt to recognize these grave wrongs and to redress the injustice to these Americans of Japanese and Aleut ancestry removed by our government from their homes and interned.

This legislation grows out of the process that began with Congress' creation of the Commission on Wartime Relocation and Internment of Civilians in 1980. The Commission, which has now completed its factual investigation, unanimously determined that no military necessity existed at the time for removal or exclusion from the Coast. The Commission recommended monetary compensation as symbolic redress for those who suffered.

Under our bill people of Japanese or Alaskan Aleut ancestry excluded from their homes on the West Coast and / or interned between December 7, 1941, and December 17, 1944, are eligible for compensation.

The Attorney General must locate and pay to each eligible person the sum determined by the appropriate congressional committees after reviewing the Commission's recommendations for redress.

While our bill doesn't specify an exact sum, it is consistent with the Commission's recommendations and is designed to carry out these recommendations.

We did not specify amounts in our legislation because we did not want this entire process to turn into a debate over an amount of money.

Many of these individuals, but not all, lost many times the amounts the Commission has proposed.

And all suffered the same basic injustice and affront to their civil liberties.

How can that be measured in money?

Of course, it can't! Monetary compensation here is a symbolic effort to provide redress.

But a substantial individual payment is an essential element of making redress a reality and of deterring similar civil liberties violations in the future.

The largest of the constituent organizations -- the Japanese American Citizens League (JACL) -- has endorsed both the Commission's recommendations and our bill.

At this point, I would like to place in the record JACL's letter endorsing enactment of S. 1520.

I join in recommending that the amounts the Commission has recommended for payment be the "appropriate amounts" as determined by this Committee

In order to insure prompt payment to internees, especially those of advanced age, payments must be made within three years after this bill is

enacted.

If an eligible individual is deceased, cannot be found, or refuses or is unable to accept payment, the payment will go into a trust fund for the benefit of communities in the U.S. in which internees or their descendants live for purposes including education, health, housing, cultural and related objectives.

A board of trustees appointed by the President, subject to Senate confirmation, will administer the fund under rules spelled out by the Attorney General. At least half of the trustees will either be eligible individuals or their descendants.

S. 1520 is intended as a vehicle for -- and is compatible with -- the Commission's recommendations.

It takes into account well-considered views of the community to whom redress is due.

One minor technical difference is that, while the Commission would first establish a trust fund out of which to make individual reparation: our bill provides direct payment to individuals, many of whom are of advanced age. The Japanese American community is very concerned -- and justly so -- that individual payments be made as promptly as possible, especially to the older internees and evacuees, without the delays inherent in setting up a trust fund and developing rules for its operation.

This act is a just and fair redress to those individuals who were excluded and/or interned without justification, in gross violation of their civil liberties as American citizens and residents.

This episode in American history should never have happened. It's the government's responsibility -- and ours as legislators -- to set the record straight. We must try, at least, to recognize and partially compensate for past injustices and to discourage similar injustices in the future, although the tarnish on our Constitution can never be completely erased.

I urge the Subcommittee to move this legislation promptly.

Mr. Chairman, I request that a copy of my remarks from the Congressional Record be placed in the Committee's Hearings Record.

LILLIAN BAKER
STATEMENT
JULY 27, 1983

HEARING: ROOM 562, DIRKSEN SENATE OFFICE BUILDING
TIME: 10 A.M.

SUBJECT: S. 1520 JUNE 22 (LEGISLATIVE DAY, JUNE 20), 1983
MR. CRANSTON (FOR HIMSELF AND MR. KENNEDY) INTRO-
DUCED THE FOLLOWING BILL; WHICH WAS READ TWICE
AND REFERRED TO THE COMMITTEE ON THE JUDICIARY

S.1520, World War II Civil Liberties Violations
Redress Act

and

FINAL RECOMMENDATIONS OF THE COMMISSION ON WARTIME
RELOCATION AND INTERNMENT OF CIVILIANS (CWRIC)

WASHINGTON, D.C. JUNE 1983

"Personal Justice Denied" PART 2: RECOMMENDATIONS

This written STATEMENT is summarized as part of the sub-
mission to: The Honorable Charles E. Grassley,
United States Senator (Iowa)
Chairman, Subcommittee on
Administrative Practice and Procedure
United States Senate
Committee on the Judiciary
Washington; D.C. 20510

The STATEMENT consists of:

- 1) Documentation, Numbers 1 thru 32, accompanying
the Summary and the detailed written Statement
of major points supporting Baker's position.
- 2) Baker's book, "THE CONCENTRATION CAMP CONSPIRACY:
A SECOND PEARL HARBOR", (Dec.1981 publication)
AFHA Publications, P.O. Box 372, Lawndale, CA.
90260.
- 3) SUMMARY of position taken, with more detailed
treatment of major points submitted in the
written STATEMENT, hereto attached.

Lillian Baker
15237 Chanera Avenue
Gardena, CA 90249

Page 1 of 5.
+ COVER SHEET

STATEMENT

The opportunity to participate in the hearings on S. 1520, and the final recommendations of the Commission on Wartime Relocation and Internment of Civilians is greatly appreciated, and the writer welcomes further inquiry by way of questioning by any and all participants.

Because my book, "THE CONCENTRATION CAMP CONSPIRACY: A SECOND PEARL HARBOR", and the accompanying documentation with this written STATEMENT clarifies my position representing views of many, many concerned citizens and taxpayers, it would belabor the points I wish to make by submitting a lengthy statement. My publication and the additional documents stand on their merit and it seems more vital to consider historical documentation rather than emotional rhetoric which we are all inclined to use because of its impact. A simple document stating a simple truth is often brushed aside in favor of simplistic answers to complex questions.

The documentation in my book and those submitted hereto, are captioned with my comments, and I offer these as contradictions to the findings of the Commission and as rebuttal to the baseless premise upon which legislative bills have been introduced to the Senate and to the House of Representatives. Hundreds of more documents are in my files begging for necessary attention, scrutiny and study before any legislative action is taken by our Congress on behalf of the electorate. These voluminous papers had been offered to the Commission. Copies of my book were sent to the Commission and to every member of the Congress and Senate, including the newly elected, as well as to every member of the Judiciary Committee. These were sent with the compliments of Lillian Baker, a concerned citizen who is actually more concerned with upholding the honor of our Nation than in the unjustifiable raid on the U.S. treasury.

Baker's position is this:

During World War II, millions of Americans were called upon to make wartime sacrifices, including the loss of homes, properties, businesses, loved ones, and educational opportunities, as well as suffering mental and physical abuses and loss of ordinary civil rights.

During World War II, the United States had the legal right under international law to intern all alien enemies, including German, Italian, and Japanese. The United States is the only nation at war that did not intern both innocent enemy aliens and those known to have charges against them. The only German, Italian, and Japanese aliens interned in the Department of Justice internment camps, were those proven to be a danger to our national security. The United States went one step further in its humanitarian effort towards aliens caught in a host nation in time of war--that is, in keeping with Japanese tradition, families of Japanese enemy aliens at the "hard-core" internment camp at Crystal City, Texas, were allowed to join together in a family unit. This, of course, included American-born Japanese who held dual citizenship, and while living in this country were Americans.

No American citizen, except for cases stated above, ever suffered "internment" which was strictly reserved for alien enemies and detention was for the duration of the war.

No American citizen among the evacuees ~~were~~ ever denied habeus corpus. Indeed, several cases were brought to court while engaged in mortal combat with our enemies. Even in wartime, our system of justice was still working.

Redress was never denied an American citizen. Our landmark test case of the curfew and exclusion order is verification of this fact. Redress was granted all the way to the Supreme Court. The Korematsu case, testing Executive Order 9066, was affirmed as constitutionally correct as "nothing more than an exclusion order".

Chief Justice Earl Warren, the late Justice Abe Fortas, Justice Tom C. Clark, Justice William O. Douglas, and member

of the Commission on Wartime Relocation and Internment of Civilians, former Justice of the Supreme Court Arthur J. Goldberg, all served simultaneously on our highest tribunal, from 1960 through 1965. This represents five years during which five of our Justices of the U. S. Supreme Court could have worked together to REVERSE the decisions which legislators seek to do today. It only takes five Justices to reverse themselves; and only the Supreme Court can do this.

This is a point I strongly make because in the arguments set forth by both the Commission and backers of the Senate and House bills, is that all the affirming Justices in the Korematsu decision upholding the evacuation, had "repented" or "apologized".

Here are the documented facts:

a) Mr. Chief Justice Earl Warren, who was attorney general in California and urged the evacuation, never apologized either as attorney general nor later when he became one of the most liberal Justices ever to sit on the bench. When Warren was invited to speak at a commencement exercise at a university in California shortly before he died, the invitation was withdrawn because he would not buckle under the demands of the students to "apologize first". Warren declined the opportunity to publicly "repent" for his participation in obeying an Executive Order.

b) Mr. Justice William O. Douglas, certainly remembered as another highly liberal jurist, died in 1980 after resigning in 1975 due to illness. In late 1974, Douglas reaffirmed his position in DeFunis v. Odegaard, stating: "Our Navy was sunk at Pearl Harbor, and no one knew where the Japanese fleet was*** if the Japanese had landed troops on our West Coast, nothing could stop them west of the Rockies. The military judgment was that to aid in the prospective defense of the West Coast, the enclaves of Americans of Japanese ancestry should be moved inland, lest the invaders, by donning civilian clothes would wreak even more serious havoc on our Western ports***"

c) Mr. Justice Hugo Black, who wrote the opinion for the court, and another liberal thinker, stated: "All citizens alike, both in and out of uniform, feel the impact of war in greater

or lesser measure. Citizenship has its responsibilities as well as its privileges and in time of war the burden is always heavier."

Justice Black defended his carefully and brilliantly written opinion in the landmark Korematsu case without compromise when he said for the public record that, "The President could have declared martial law. Instead, they took the better way of passing a law to detain them. There's a difference between war and peace. You can't fight a war with the courts in control." When the issue of "race" was considered, Black dismissed the charge of racial overtones with, "a particular race was the threatening invader (Japan)".

Unyielding, Black was quoted in the Sept. 26, 1971 issue of THE NEW YORK TIMES: "I would do precisely the same thing today, in any part of the country. I would probably issue the same order were I President. We had a situation where we were at war. People were rightly fearful of the Japanese in Los Angeles, many loyal to the United States, many undoubtedly not, having dual citizenship--lots of them. They all look alike to a person not a Jap. Had they (the Japanese) attacked our shores you'd have a large number fighting with the Japanese troops. And a lot of innocent Japanese-Americans would have been shot in the panic. Under these circumstances I saw nothing wrong in moving them away from the danger area." [Baker's emphasis]

THE CONGRESS OF THE UNITED STATES TOOK AN OATH OF OFFICE TO ACT LAWFULLY AND UPHOLD THE CONSTITUTION OF THE UNITED STATES. THE UNITED STATES SUPREME COURT, NOT A COMMISSION, IS THE KEEPER OF OUR CONSTITUTION AND DECIDES THE CONSTITUTIONALITY OF ACTS OF CONGRESS AND THE PRESIDENT.

THE UNITED STATES SUPREME COURT UPHELD THE EXCLUSION ORDER. IN ITS 6-3 OPINION, THE COURT STATED THAT NO EVACUEE EITHER IN FACT OR BY LAW WAS REQUIRED TO GO FROM AN ASSEMBLY CENTER TO A WAR RELOCATION AUTHORITY RELOCATION CENTER (AND MANY DID NOT). THE COURT DEEMED IT "UNJUSTIFIABLE TO CALL THEM 'CONCENTRATION CAMPS' WITH ALL THE UGLY CONNOTATIONS THAT TERM IMPLIES".

As for the relocation centers:

The evacuees themselves held two testimonials honoring the director and staff of the War Relocation Authority--after war's end--for the "humane treatment and understanding" of a wartime dilemma. Not a single charge of "inhumanity" was ever brought against either the United States Government, the administrators of the WRA and its staff, by any evacuee.

The closing of the WRA centers was PROTESTED BY THE EVACUEES THEMSELVES. See documentation herein submitted to the Subcommittee.

The self-governing relocation centers were funded by United States taxpayers, including cooperatives which paid profits to evacuees. (See Pages 309-314, Milton S. Eisenhower statement substantiating monetary appropriations of \$70,000,000, for the WRA for the year 1943, which included monies to establish community enterprises within the relocation centers)

Evacuees were not forced to labor; those that did, were paid the equivalent of men in uniform. Should they have been earning more? In addition to the monetary pay, the evacuees received medical and dental care, food, clothing allowance, basic necessities, and had freedom of worship, the rites of marriage and co-habitation, as well as protection from outside vengeful vigilantes.

More than 3000 evacuees went from the WRA centers to colleges and universities, mostly funded by American citizens and grants by these American foundations.

CLAIMS - Public Law No. 886, (Evacuation Claims Statute), July 2, 1948 (later further amended in 1950-1952 to reimburse for even a fishing pole), paid all claims for real and personal property losses. The United States government, unlike the enemy, never CONFISCATED either property or deposits in foreign-investment banks in the United States. Bank accounts were FROZEN, not confiscated.

The documentation presented to the Subcommittee and the position taken by Baker is historically accurate. As such, there is no justification for the actions by Legislators seeking redress and reparations upon recommendations of a Commission whose findings were forecast in the past and without basis in fact.

* Baker's Book.

Testimony
of
Congressman Daniel E. Lungren
42nd District, California

Before
the
Senate Judiciary Committee
Subcommittee on Administrative Practices and Procedure

July 27, 1983

Mr. Chairman, Committee Members.

Thank you for the opportunity to testify before the Senate Judiciary, Subcommittee on Administrative Practices and Procedure regarding the recommendations of the Commission on Wartime Relocation and Internment of Civilians and S. 1520, The World War II Civil Liberties Violations Redress Act.

As the Vice-Chairman and the only commissioner to dissent on the issue of individual reparations, some might conclude that I find fault with the basic conclusions of the Commission on Wartime Relocation and Internment of Civilians. I do not. In fact, I was a cosponsor of the legislation in the 96th Congress that established this commission so that Americans would be made aware of this tragedy in our nation's history.

As a young boy growing up in Southern California I did not hear of the internment and recall that hearing the news of the incident at a later time was a great surprise. I grew up in a community where Japanese

Americans were known as solid, productive citizens. I was astonished to learn that a few decades earlier they had been removed from the general society and deprived of liberty and property.

The history of World War II leaves little room for doubt that a grave injustice was committed when the United States government implemented Executive Order 9066 directing the internment of nearly 120,000 Japanese Americans and resident aliens living on the west coast.

Of the Commission's recommendations, I fully concur with the findings of the commission that the implementation of Executive Order 9066 was largely the result of "race prejudice, war hysteria, and a failure of political leadership".

I am concerned, however, that only one of several recommendations, individual monetary-reparations, seems to have preoccupied the mind of the press and American people. I am opposed to individual monetary reparations for the following reasons: (1) Congress and the American people have made several efforts to compensate Japanese Americans since the internment. To paraphrase the Washington Post, "It is not irrelevant that the government has already paid \$37 million to the internees for provable real and personal property losses." (2) It is inappropriate that present day taxpayers should be held accountable for actions that occurred 40 years ago. Should we pay monetary redress for the the abhorrent practice of slavery or the inhumane treatment of Indians 100 years ago? (3) To place a price tag on freedom is impossible, in the words of the Commission, "No amount of money can fully compensate the excluded people for their losses and sufferings."

Even though the work recently completed by the Commission comes 40 years after the event, the U.S. government has all along been making an honest effort to correct this American tragedy. Since the bill, S. 1520, contains provisions for redress, but neglectfully fails to mention the governments attempts to rectify the issue, it may be helpful to review the record.

- o In 1948, Congress passed the Japanese-Americans Evacuation Claims Act; this gave persons of Japanese ancestry the right to claim from the government real and personal property losses that occurred as a consequence of the exclusion. Although this was below actual economic losses, \$37 million was paid in claims.

- o In 1972, the Social Security Act was amended so that Japanese Americans who were over the age of eighteen at the time of their internment would be deemed to have earned and contributed to the Social Security system during that period.

- o On February 19, 1976 President Ford issued proclamation order No. 4418 which rescinded and apologized for Executive Order 9066 (exactly 34 years after the event).

- o In 1978, the federal civil service retirement provisions were amended to allow the Japanese Americans civil service retirement credit for time spent in detention after the age of eighteen.

I recognize that these actions can never provide total recompense for the victims. However, these actions are an expression of the government's sense of contrition. The establishment of the Commission (at a cost of nearly \$1.5 million) and its production of a factual history (the Commission's most significant contribution) is also clear testimony to this fact.

Although the bill presently before this committee does not contain a specific dollar value, should the Congress accept the Commission's suggestion of \$20,000 per internee, the total appropriation would be nearly \$1.5 billion. Does it necessarily follow that the American people are 1,000 times more sincere? Do we truly believe that nothing can be sincere and credible, unless it involves the coin of the

realm? Have we reached such a state in our society that, unless money is attached, nothing can be a genuine expression of concern or action?

Additionally, this bill adds provisions that make it incumbent on the government to locate each eligible individual. The bureaucratic headaches created by that single provision will be nightmarish.

As Members of one of the greatest legislative bodies, we will be asked to compare this request for individual funds with those of Social Security recipients, food stamps and nutrition programs, senior citizen housing, and national defense needs. Within the context of an already hemorrhaging federal deficit, can we really justify this expenditure?

Furthermore, does it make sense for a present guiltless generation to pay reparation for decisions made by leaders who are all long removed from the scene?

Carried to its logical extension, such a principle of restitution, could have untold consequences. Should the Chinese be paid back for their underpaid role in helping the railroads open the American West? Should people of German ancestry be compensated for being denied rights in World War I? Should we return to Black Americans the plantations on which their families worked for over 200 years?

Finally, do we as a nation want to set a precedent that places a price tag on the loss of individual freedom? As the Commission recommendations so clearly indicate, "Some find such an attempt in itself a means of minimizing the enormity of these events in a constitutional republic. History cannot be undone; anything we do now must inevitably be an expression of regret and an affirmation of our better values as a nation, not an accounting which balances or erases the events of the war."

The conclusions of the Commission are sound. "Race prejudice, lack of political leadership, and war hysteria", can and did lead this nation to make the gross and tragic mistake of internment.

Unfortunately, I fear the premises on which S. 1520 are based are not sound. The Congress and the American people through their representatives have made and are making credible and sincere efforts to rectify this American tragedy. Regretfully, the World War II Civil Liberties Violations Redress Act, does not contain provisions for the additional printing and distribution of the report, Personal Justice Denied. Efforts to remedy this deficiency as well as an official apology by a vote of Congress and signature of the President would serve to remind all Americans of this tragic period in our history. Let us not get caught up in an acrimonious debate on monetary redress while losing sight of the lessons to be drawn from this episode in our nations history.

Our proper response today should be to continue to echo that of President Ford's as we assert that, "...we have learned from the tragedy of that long ago experience forever, to treasure liberty and justice for each individual American, and resolve that this kind of action shall never again be repeated."



"USA TODAY hopes to serve as a forum for better understanding and unity to help make the USA truly one nation."

- Allen H. Neuharth
Chairman and Founder
Sept. 15, 1982

John C. Quinn
Editor

John Seigenthaler
Editorial Director

OPINION

The Issue:

DETENTION'S PRICE

Each day, USA TODAY explores and debates a news issue. Today's page includes our opinion that the courts are the right place to decide reparations for Japanese Americans, other views from California, Connecticut and the District of Columbia, and voices from across the USA.

DANIEL E. LUNGREN

Guest columnist

Show remorse in other ways

WASHINGTON — There's no doubt that the relocation of 120,000 Japanese American citizens and resident aliens was a grave injustice.

But the commission's conclusion that the exclusion decisions "were shaped by race prejudice, war hysteria and a failure of political leadership," and the accompanying report, *Personal Justice Denied*, are the commission's most important work.

The printing of this historical report has accomplished its primary objective — to help people understand what actually transpired. Many people from my generation were not even aware that the injustices occurred. I hope the greater awareness of what happened will help prevent the unjustified exclusion of any class of

Americans ever again.

However, on the issue of reparations, I was the only dissenter on the commission.

There are three prime reasons: First, the sole focus of the commission has never been to determine some form of monetary restitution. I don't agree that individual monetary compensation is the only way to demonstrate remorse.

I believe it is demeaning to the affected Japanese Americans to assume that a monetary value could be placed on their experience. The relocation order was a mistake. We must apologize for it and learn from it. But nothing can erase its injustice.

Second, the commission's recommendations for reparations may establish a prece-

U.S. Rep. Daniel E. Lungren, R-Calif., is vice chairman of the Commission on Wartime Relocation and Internment of Civilians.

dent to pay money for the redress of other long past injustices. Should we pay monetary redress for countenancing the abhorrent practice of slavery or the inhumane treatment of Indians 100 years ago?

And does anyone believe that requiring present day monetary redress by the taxpayer for mistaken government actions of 40 years ago will act as a deterrent against future unjustified actions?

Third, the current fiscal environment makes the passage of any sizable reparations by the Congress extremely unlikely.