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WITHDRAWAL SHEET

Ronald Reagan Library

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
letter case			
1. memo	Howard H. Baker to the President, re restitution for Japanese internment (partial)	3/29/88	P-5
2. memo	same as item #1 (partial)	3/29/88	P-5
COLLECTION:			
McGRATH, C. DEAN: Files			smf
FILE FOLDER:			
Japanese-American Internment Legislation Box 16820 ¹⁶⁸¹⁹ <i>CFOA 1305</i>			10/20/94

RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

- P-1 National security classified information [(a)(1) of the PRA].
- P-2 Relating to appointment to Federal office [(a)(2) of the PRA].
- P-3 Release would violate a Federal statute [(a)(3) of the PRA].
- P-4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA].
- P-5 Release would disclose confidential advice between the President and his advisors, or between such advisors [(a)(5) of the PRA].
- P-6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA].

Freedom of Information Act - [5 U.S.C. 552(b)]

- F-2 Release could disclose internal personnel rules and practices of an agency [(b)(2) of the FOIA].
- F-7 Release would disclose information compiled for law enforcement purposes [(b)(7) of the FOIA].
- F-8 Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA].
- F-9 Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA].
- C. Closed in accordance with restrictions contained in donor's deed of gift.

WHITE HOUSE CORRESPONDENCE TRACKING WORKSHEET

- O - OUTGOING
- H - INTERNAL
- I - INCOMING
Date Correspondence Received (YY/MM/DD) 1/1

Name of Correspondent: Rhett Dawson

MI Mail Report User Codes: (A) _____ (B) _____ (C) _____

Subject: Presidential Remarks: Signing Ceremony for Japanese Internment Legislation

ROUTE TO:	ACTION	DISPOSITION
Office/Agency (Staff Name)	Action Code	Tracking Date YY/MM/DD
<u>cuhol1</u>	ORIGINATOR	<u>98,08,10</u>
	Referral Note:	<u>1 1</u>
<u>cuatz4</u>	<u>A</u>	<u>88,08,10</u>
	Referral Note:	<u>1 1</u>
		<u>1 1</u>
	Referral Note:	<u>1 1</u>
		<u>1 1</u>
	Referral Note:	<u>1 1</u>
		<u>1 1</u>
	Referral Note:	<u>1 1</u>

ACTION CODES:
 A - Appropriate Action
 C - Comment/Recommendation
 D - Draft Response
 F - Furnish Fact Sheet
 to be used as Enclosure

I - Info Copy Only/No Action Necessary
 R - Direct Reply w/Copy
 S - For Signature
 X - Interim Reply

DISPOSITION CODES:
 A - Answered C - Completed
 B - Non-Special Referral S - Suspended

FOR OUTGOING CORRESPONDENCE:
 Type of Response = Initials of Signer
 Code = "A"
 Completion Date = Date of Outgoing

Comments: No further action necessary.
C. Dean McGrath, Jr.
8-10-88

Keep this worksheet attached to the original incoming letter.
 Send all routing updates to Central Reference (Room 75, OEOP).
 Always return completed correspondence record to Central Files.
 Refer questions about the correspondence tracking system to Central Reference, ext. 2590.

WHITE HOUSE STAFFING MEMORANDUM

DATE: 08/09/88 ACTION/CONCURRENCE/COMMENT DUE BY: ----

SUBJECT: PRESIDENTIAL REMARKS: SIGNING CEREMONY FOR JAPANESE INTERNMENT LEGISLATION

(08/09 6:30 p.m. draft)

	ACTION FYI			ACTION FYI	
VICE PRESIDENT	<input type="checkbox"/>	<input checked="" type="checkbox"/>	HOBBS	<input type="checkbox"/>	<input type="checkbox"/>
DUBERSTEIN	<input type="checkbox"/>	<input checked="" type="checkbox"/>	HOOLEY	<input type="checkbox"/>	<input type="checkbox"/>
POWELL	<input type="checkbox"/>	<input checked="" type="checkbox"/>	KRANOWITZ	<input type="checkbox"/>	<input checked="" type="checkbox"/>
MILLER - OMB	<input type="checkbox"/>	<input checked="" type="checkbox"/>	MASENG	<input type="checkbox"/>	<input checked="" type="checkbox"/>
OGLESBY	<input type="checkbox"/>	<input checked="" type="checkbox"/>	RANGE	<input type="checkbox"/>	<input checked="" type="checkbox"/>
BAUER	<input type="checkbox"/>	<input checked="" type="checkbox"/>	RISQUE	<input type="checkbox"/>	<input checked="" type="checkbox"/>
CRIBB	<input type="checkbox"/>	<input type="checkbox"/>	RYAN	<input type="checkbox"/>	<input type="checkbox"/>
CRIPPEN	<input type="checkbox"/>	<input type="checkbox"/>	SPRINKEL	<input type="checkbox"/>	<input type="checkbox"/>
CULVAHOUSE	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	TUCK	<input type="checkbox"/>	<input type="checkbox"/>
DAWSON	<input type="checkbox"/>	<input checked="" type="checkbox"/>	TUTTLE	<input type="checkbox"/>	<input type="checkbox"/>
DONATELLI	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<u>DOLAN</u>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
FITZWATER	<input type="checkbox"/>	<input checked="" type="checkbox"/>	_____	<input type="checkbox"/>	<input type="checkbox"/>

REMARKS:

The attached has been forwarded to the President.

RESPONSE:

(Robinson/ARD)
August 9, 1988
6:30 p.m.

PRESIDENTIAL REMARKS: SIGNING CEREMONY FOR JAPANESE
INTERNMENT LEGISLATION
WEDNESDAY, AUGUST 10, 1988

1988 AUG -9 PM 6:50

Members of Congress, distinguished guests, my fellow
Americans:

We gather here today to right a grave wrong.

More than 40 years ago, shortly after the bombing of Pearl Harbor, 120,000 persons of Japanese ancestry living in the U.S. were forcibly removed from their homes and placed in makeshift internment camps. This action was taken without trial, without jury. It was based solely on race -- for these 120,000 were Americans of Japanese descent.

Yes, the Nation was then at war, struggling for its survival -- and it is not for us today to pass judgment upon those who may have made mistakes while engaged in that great struggle.

Yet we must recognize that the internment of Japanese Americans was just that -- a mistake. For throughout the War, Japanese-Americans in the tens of thousands remained utterly loyal to the United States.

Indeed, scores of Japanese-Americans volunteered for our Armed Forces -- many stepping forward in the internment camps themselves. The 442nd Regimental Combat Team, made up almost entirely of Japanese-Americans, served with immense distinction -- to defend this Nation, their Nation.

Yet back at home, the soldiers' families were being denied the very freedom for which so many of the soldiers themselves were laying down their lives.

Congressman Norman Mineta, with us today, was 10 years old when his family was interned. In the Congressman's words: "My own family was sent first to Santa Anita Racetrack. We showered in the horse paddocks. Some families lived in converted stables, others in hastily thrown together barracks. We were then moved to Heart Mountain, Wyoming, where our entire family lived in one small room of a rude tarpaper barrack."

Like so many tens of thousands of others, the members of the Mineta family lived in those conditions not for a matter of weeks or months, but for 3 long years.

The legislation that I am about to sign provides for a restitution payment to each of the 60,000 surviving Japanese-Americans, of the 120,000 who were relocated or detained. Yet no payment can make up for those 3 lost years.

So what is most important in this bill has less to do with property than with honor. For here we admit a wrong. Here we reaffirm our commitment as a Nation to equal justice under the law.

I'd like to note that the bill I am about to sign also provides funds for members of the Aleut community who were evacuated from the Alutian and Pribilof Islands after a Japanese attack in 1942. This action was taken for the Aleuts' own protection, but property was lost or damaged that has never been replaced.

And now in closing, I wonder whether you'd permit me one personal reminiscence -- one prompted by an old newspaper report sent to me by Rose Ochi [oh-chee], a former internee. The clipping comes from the Pacific Citizen and is dated December 1945.

"Arriving by plane from Washington," the article begins, "General Joseph W. Stilwell pinned the [Distinguished Service Cross] on...Mary Masuda [mah-SUE-dah]...in a simple ceremony on the porch of her small frame shack near Talbert, Orange County. ...she was one of the first [Americans of Japanese ancestry] to return from relocation centers to California's farmlands."

"Vinegar Joe" Stilwell was there that day to honor Kazuo [KAH-zoo-oh] Masuda, Mary's brother. You see, while Mary and her parents were in an internment camp, Kazuo served as staff sergeant to the 442nd Regimental Combat Team. In one action, Kazuo ordered his men back and advanced through heavy fire, hauling a mortar. For 12 hours, he engaged in a single-handed barrage of Nazi positions. Several weeks later at Cassino, Kazuo staged another lone advance. This time, it cost him his life.

The newspaper clipping notes that her two surviving brothers were with Mary and her parents on the little porch that morning. These two brothers -- like the heroic Kazuo -- had served in the U.S. Army after General Stilwell made the award, the motion picture actress Louise Allbritton -- a Texas girl -- told how a Texas battalion had been saved by the 442nd. Other show business personalities paid tribute -- Robert Young, Will Rogers, Jr. And one young actor said this:

"Blood that has soaked into the sands of a beach is all of one color. America stands unique in the world, the only country not founded on race, but on a way -- an ideal. Not in spite of, but because of our polyglot background, we have had all the strength in the world. That is the American way."

The name of that young actor was Ronald Reagan.

And, yes, the ideal of liberty and justice for all -- that is still the American way.

Thank you and God bless you.

And now, let me sign H.R. 442 -- so fittingly named in honor of the 442nd.

THE WHITE HOUSE

WASHINGTON

August 9, 1988

MEMORANDUM FOR ANTHONY R. DOLAN
DEPUTY ASSISTANT TO THE PRESIDENT AND
DIRECTOR OF SPEECHWRITING

FROM: C. DEAN MCGRATH, JR. *LDG*
ASSOCIATE COUNSEL TO THE PRESIDENT

SUBJECT: Presidential Remarks: Signing Ceremony for
Japanese Internment Legislation

Counsel's office has reviewed the above-referenced Presidential remarks, and we have no legal objection to their delivery.

cc: Rhett B. Dawson

WHITE HOUSE CORRESPONDENCE TRACKING WORKSHEET

- O - OUTGOING
- H - INTERNAL
- I - INCOMING
Date Correspondence Received (YY/MM/DD) 1 / 1 /

Name of Correspondent: Rhett B. Dawson

MI Mail Report User Codes: (A) _____ (B) _____ (C) _____

Subject: Presidential Remarks: Signing Ceremony for Japanese Internment Legislation

ROUTE TO:	ACTION	DISPOSITION
Office/Agency (Staff Name)	Action Code	Tracking Date YY/MM/DD
<u> cu hall </u>	ORIGINATOR	<u> 88,08,09 </u>
<u> cuat (24) </u>	Referral Note: <u> R </u>	<u> 88,08,09 </u> <u> 4PM </u>
_____	Referral Note:	<u> 1 / 1 / </u>
_____	Referral Note:	<u> 1 / 1 / </u>
_____	Referral Note:	<u> 1 / 1 / </u>
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|--|---|---|
| <p>ACTION CODES:</p> <ul style="list-style-type: none"> A - Appropriate Action C - Comment/Recommendation D - Draft Response F - Furnish Fact Sheet to be used as Enclosure | <ul style="list-style-type: none"> I - Info Copy Only/No Action Necessary R - Direct Reply w/Copy S - For Signature X - Interim Reply | <p>DISPOSITION CODES:</p> <ul style="list-style-type: none"> A - Answered B - Non-Special Referral C - Completed S - Suspended |
|--|---|---|

FOR OUTGOING CORRESPONDENCE:
 Type of Response = Initials of Signer
 Code = "A"
 Completion Date = Date of Outgoing

Comments: Please reply directly to Sony Dolan with an info copy to Rhett Dawson

Keep this worksheet attached to the original incoming letter.
 Send all routing updates to Central Reference (Room 75, OEOB).
 Always return completed correspondence record to Central Files.
 Refer questions about the correspondence tracking system to Central Reference, ext. 2590.

WHITE HOUSE STAFFING MEMORANDUM

DATE: 8/9/88 ACTION/CONCURRENCE/COMMENT DUE BY: 4:00 TODAY

SUBJECT: PRESIDENTIAL REMARKS: SIGNING CEREMONY FOR JAPANESE INTERNMENT LEGISLATION

	ACTION FYI			ACTION FYI	
VICE PRESIDENT	<input type="checkbox"/>	<input checked="" type="checkbox"/>	HOBBS	<input type="checkbox"/>	<input type="checkbox"/>
DUBERSTEIN	<input type="checkbox"/>	<input checked="" type="checkbox"/>	HOOLEY	<input type="checkbox"/>	<input type="checkbox"/>
POWELL	<input checked="" type="checkbox"/>	<input type="checkbox"/>	KRANOWITZ	<input checked="" type="checkbox"/>	<input type="checkbox"/>
MILLER - OMB	<input checked="" type="checkbox"/>	<input type="checkbox"/>	MASENG	<input checked="" type="checkbox"/>	<input type="checkbox"/>
OGLESBY	<input type="checkbox"/>	<input checked="" type="checkbox"/>	RANGE	<input checked="" type="checkbox"/>	<input type="checkbox"/>
BAUER	<input checked="" type="checkbox"/>	<input type="checkbox"/>	RISQUE	<input checked="" type="checkbox"/>	<input type="checkbox"/>
CRIBB	<input type="checkbox"/>	<input type="checkbox"/>	RYAN	<input type="checkbox"/>	<input type="checkbox"/>
CRIPPEN	<input type="checkbox"/>	<input type="checkbox"/>	SPRINKEL	<input type="checkbox"/>	<input type="checkbox"/>
CULVAHOUSE	<input checked="" type="checkbox"/>	<input type="checkbox"/>	TUCK	<input type="checkbox"/>	<input type="checkbox"/>
DAWSON	<input type="checkbox"/>	<input checked="" type="checkbox"/>	TUTTLE	<input type="checkbox"/>	<input type="checkbox"/>
DONATELLI	<input checked="" type="checkbox"/>	<input type="checkbox"/>	DOLAN	<input type="checkbox"/>	<input checked="" type="checkbox"/>
FITZWATER	<input type="checkbox"/>	<input checked="" type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>

REMARKS: Please provide your comments/recommendations directly to Tony Dolan's office with an info copy to my office by 4:00 TODAY Tuesday, August 9, 1988. Thank you.

RESPONSE:

(Robinson)
August 9, 1988
12:30 p.m.

PRESIDENTIAL REMARKS: SIGNING CEREMONY FOR JAPANESE
INTERNMENT LEGISLATION 1988 AUG -9 PM 12:11
WEDNESDAY, AUGUST 10, 1988

My fellow Americans:

We gather here today to right a grave wrong.

More than 40 years ago, shortly after the bombing of Pearl Harbor, 120,000 Americans were forcibly removed from their homes and placed in makeshift internment camps. This action was taken without trial, without jury. It was based solely on race -- for these 120,000 were Americans of Japanese descent.

Yes, the Nation was then at war, struggling for its survival -- and it is not for us today to pass judgment upon those who may have made mistakes while engaged in that great struggle.

Yet we must recognize that the internment of Japanese Americans was just that -- a mistake.

Throughout the War, no Americans of Japanese ancestry committed any acts of disloyalty, let alone treason. On the contrary, tens of Japanese-Americans volunteered for our Armed Forces -- many stepping forward in the internment camps themselves. The 442nd Regimental Combat Team -- made up almost entirely of Japanese-Americans -- served with distinction throughout the War.

To defend their Nation, their homeland, the United States of America.

Yet back at home, the soldiers' families were being denied the very freedom for which so many of the soldiers themselves were laying down their lives.

Congressman Norman Mineta, with us today, was 10 years old when his family was interned. In the Congressman's words: "My own family was sent first to Santa Anita Racetrack. We showered in the horse paddocks. Some families lived in converted stables, others in hastily thrown together barracks. We were then moved to Heart Mountain, Wyoming, where our entire family lived in one small room of a rude tarpaper barrack."

Like so many tens of thousands of others, the members of the Mineta family lived in those conditions not for a matter of weeks or months, but for three long years.

The legislation that I am about to sign provides for a restitution payment to each of the 60,000 surviving Japanese-Americans, of the 120,000 who were relocated or detained. Yet no payment can make up for those three lost years.

So what is most important in this bill has less to do with property than with honor. For here we admit a wrong. Here we reaffirm our commitment as Nation to equal justice under the law.

I'd like to note that the bill I am about to sign also provides funds for the Aleut community of American Indians, a community of several hundred. The Aleuts were evacuated from the island of Attu after a Japanese attack in 1942. This action was taken for the Aleuts' own protection, but property was lost or damaged that has never been replaced. This bill will offer compensation.

And now in closing, I wonder whether you'd permit me one personal reminiscence -- one prompted by an old newspaper report sent to me by Rose Ochi, a former internee. The clipping comes from the Pacific Citizen and is dated December 1945.

"Arriving by plane from Washington," the article begins, "General Joseph W. Stilwell pinned the Distinguished Service Cross on...Mary Masuda...in a simple ceremony on the porch of her small frame shack near Talbert, Orange County....she was one of the first Americans of Japanese ancestry to return from relocation centers to California's farmlands."

"Vinegar Joe" Stilwell was there that day to honor Kazuo Masuda, Mary's brother. You see, while Mary and her parents were in an internment camp, Kazuo served as staff sergeant to the 442nd Regimental Combat Team. In one action, Kazuo ordered his men back and advanced through heavy fire, hauling a mortar. For 12 hours, he engaged in a single-handed barrage of Nazi positions. Several weeks later at Cassino, Kazuo staged another lone advance. This time, it cost him his life.

The newspaper clipping notes that her two surviving brothers were with Mary on the little porch that morning. Like their dead brother, both served in the Army.

After General Stilwell made the award, the motion picture actress Louise Allbritton -- a Texas girl -- told how a Texas battalion had been saved by the 442nd. Other show business personalities paid tribute -- Robert Young, Will Rogers, Jr. And one young actor said this:

"Blood that has soaked into the sands of a beach is all of one color. America stands unique in the world, the only country not founded on race, but on a way -- an ideal. Not in spite of, but because of our polyglot background, we have had all the strength in the world. That is the American way."

The name of that young actor, the newspaper records, was Ronald Reagan.

And, yes, the ideal of liberty and justice for all -- that is still the American way.

Thank you and God bless you.

And now, let me sign H.R. 442 -- so fittingly named in honor of the 442nd.

THE WHITE HOUSE

WASHINGTON

August 9, 1988

MEMORANDUM FOR RHETT B. DAWSON

ASSISTANT TO THE PRESIDENT FOR OPERATIONS

FROM:

C. DEAN MCGRATH, JR. *DMCJ*
ASSOCIATE COUNSEL TO THE PRESIDENT

SUBJECT:

Enrolled Bill H.R. 442 -- To Implement
Recommendations of the Commission on Wartime
Relocation and Internment of Civilians

Counsel's office has reviewed the above-referenced enrolled bill, and we have no legal objection to the recommendation of the Director, Office of Management and Budget, that it be approved and signed by the President.

Thank you for submitting this matter for our review.

WHITE HOUSE CORRESPONDENCE TRACKING WORKSHEET

- O - OUTGOING
 H - INTERNAL
 I - INCOMING
 Date Correspondence Received (YY/MM/DD) 1/1

Name of Correspondent: Rhett B. Dawson

MI Mail Report User Codes: (A) _____ (B) _____ (C) _____

Subject: H.R. 442 -- To implement recommendations of the Commission on Wartime Relocation and Internment of Civilians

ROUTE TO:	ACTION	DISPOSITION
Office/Agency (Staff Name)	Action Code	Tracking Date YY/MM/DD
<u>cuhsell</u>	ORIGINATOR	8808109
<u>cuat (24)</u>	Referral Note: <u>R</u>	88108109
_____	Referral Note:	_____
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ACTION CODES:

- | | |
|---|---|
| A - Appropriate Action
C - Comment/Recommendation
D - Draft Response
F - Furnish Fact Sheet
to be used as Enclosure | I - Info Copy Only/No Action Necessary
R - Direct Reply w/Copy
S - For Signature
X - Interim Reply |
|---|---|

DISPOSITION CODES:

- | | |
|--|--------------------------------|
| A - Answered
B - Non-Special Referral | C - Completed
S - Suspended |
|--|--------------------------------|

FOR OUTGOING CORRESPONDENCE:

- Type of Response = Initials of Signer
 Code = "A"
 Completion Date = Date of Outgoing

Comments: _____

Keep this worksheet attached to the original incoming letter.
 Send all routing updates to Central Reference (Room 75, OEOB).
 Always return completed correspondence record to Central Files.
 Refer questions about the correspondence tracking system to Central Reference, ext. 2590.

WHITE HOUSE STAFFING MEMORANDUM

DATE: 08/08/88 ACTION/CONCURRENCE/COMMENT DUE BY: c.o.b. Tuesday, 08/09

SUBJECT: H.R. 442 -- TO IMPLEMENT RECOMMENDATIONS OF THE COMMISSION ON WARTIME RELOCATION AND INTERNMENT OF CIVILIANS

	ACTION	FYI		ACTION	FYI
VICE PRESIDENT	<input type="checkbox"/>	<input checked="" type="checkbox"/>	HOBBS	<input type="checkbox"/>	<input type="checkbox"/>
DUBERSTEIN	<input type="checkbox"/>	<input checked="" type="checkbox"/>	HOOLEY	<input type="checkbox"/>	<input type="checkbox"/>
POWELL	<input checked="" type="checkbox"/>	<input type="checkbox"/>	KRANOWITZ	<input checked="" type="checkbox"/>	<input type="checkbox"/>
MILLER - OMB	<input type="checkbox"/>	<input type="checkbox"/>	MASENG	<input checked="" type="checkbox"/>	<input type="checkbox"/>
OGLESBY	<input type="checkbox"/>	<input checked="" type="checkbox"/>	RANGE	<input checked="" type="checkbox"/>	<input type="checkbox"/>
BAUER	<input checked="" type="checkbox"/>	<input type="checkbox"/>	RISQUE	<input checked="" type="checkbox"/>	<input type="checkbox"/>
CRIBB	<input checked="" type="checkbox"/>	<input type="checkbox"/>	RYAN	<input type="checkbox"/>	<input type="checkbox"/>
CRIPPEN	<input type="checkbox"/>	<input type="checkbox"/>	SPRINKEL	<input type="checkbox"/>	<input type="checkbox"/>
CULVAHOUSE	<input type="checkbox"/>	<input type="checkbox"/>	TUCK	<input type="checkbox"/>	<input type="checkbox"/>
DAWSON	<input type="checkbox"/>	<input checked="" type="checkbox"/>	TUTTLE	<input checked="" type="checkbox"/>	<input type="checkbox"/>
DONATELLI	<input checked="" type="checkbox"/>	<input type="checkbox"/>	_____	<input type="checkbox"/>	<input type="checkbox"/>
FITZWATER	<input type="checkbox"/>	<input checked="" type="checkbox"/>	_____	<input type="checkbox"/>	<input type="checkbox"/>

REMARKS:

Please provide any comments/recommendations directly to my office by close of business on Tuesday, August 9th. Thanks.

RESPONSE:

11-70



EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

AUG 8 1988

1988 AUG -8 PM 7:02

MEMORANDUM FOR THE PRESIDENT

SUBJECT: Enrolled Bill H.R. 442 - To Implement Recommendations
of the Commission on Wartime Relocation and
Internment of Civilians
Sponsors - Rep. Foley (D) Washington and 166 others

Last Day for Action

August 17, 1988 - Wednesday

Purpose

To provide restitution to (1) persons of Japanese ancestry who were relocated from the West Coast of the United States during World War II and (2) persons of the Pribilof and Aleutian Islands who were relocated by the United States Government during World War II.

Agency Recommendations

Office of Management and Budget	Approval
General Services Administration	No objection (Informally)
National Archives and Records Administration	No objection (Informally)
Department of the Interior	No objection (Informally)
Department of Defense	No objection (Informally)
Department of the Treasury	No objection (Informally)
Office of Personnel Management	No comment (Informally)
Department of Justice	Cites concerns (Informally)

Discussion

On August 1, 1988, in letters to the Speaker of the House of Representatives and the House Minority Leader, you urged that body to act swiftly and favorably on H.R. 442. The conference report on H.R. 442 was adopted by a vote of 257-156 in the House and by voice vote in the Senate.

The enrolled bill would implement recommendations of the Commission on Wartime Relocation and Internment of Civilians to ~~provide restitution to persons of Japanese ancestry who were confined, held in custody, relocated, or otherwise deprived of liberty or property as a result of the Federal Government's efforts to exclude persons of Japanese ancestry from the West~~

~~Coast during World War II.~~ The enrolled bill would also authorize "such sums as are necessary" to provide restitution payments to certain persons of Aleutian ancestry who were relocated from the Pribilof and Aleutian Islands by the United States Government during World War II.

Provisions Concerning Persons of Japanese Ancestry

Major provisions of H.R. 442 related to the internment of persons of Japanese ancestry would:

- ~~apologize to persons of Japanese ancestry for violations of their civil liberties and constitutional rights that occurred in the United States during World War II;~~
- require the Attorney General, subject to the availability of funds appropriated for such purpose, to pay each "eligible individual" the sum of \$20,000;
- ~~define as an "eligible individual" any person of Japanese ancestry who: (1) is living on the date of enactment of the enrolled bill; (2) was a United States citizen or a permanent resident alien during the relocation period (i.e., December 7, 1941, through June 30, 1946); (3) was confined, held in custody, relocated or otherwise deprived of liberty as a result of specified actions of the Federal Government during World War II; and (4) did not relocate to a country with which the United States was at war;~~
- prohibit payments from being made to persons who indicate in writing to the Attorney General that they ~~refuse to accept~~ the restitution, or to persons who, after September 1, 1987, accept payments under an award of a final judgment or settlement of a claim against the United States;
- provide that monies remaining in a newly-established Civil Liberties Public Education Fund (from which the \$20,000 restitution payments discussed above are to be made) shall be available for research and educational activities related to the internment. The enrolled bill would establish a Board of Directors to oversee disbursements from the fund for this purpose. The Board would be composed of ~~nine~~ members appointed by the President with the advice and consent of the Senate. It would be authorized to accept certain gifts or donations and would be required to report annually concerning its activities to the President and Congress.;
- authorize appropriations of \$1.25 billion for the Civil Liberties Public Education Fund and limit to \$500 million the amount that may be appropriated in any fiscal year;

- ~~require the Attorney General to locate each individual of Japanese ancestry eligible for the \$20,000 restitutionary payment.~~ The enrolled bill would require the Attorney General to use available funds for purposes of locating eligible individuals but would authorize "such sums as may be necessary" to the extent that existing resources are not sufficient. H.R. 442 would state that the Attorney General should attempt to complete efforts to locate eligible individuals within one year of enactment. Failure to locate an eligible individual within the specified time period would not preclude such individual from later receiving a payment, however.;
- provide that acceptance of a restitution payment shall fully satisfy all claims against the United States arising during the internment or relocation period;
- require the Attorney General to endeavor to make the \$20,000 restitution payments available to eligible individuals in order of date of birth, with first preference being given to the oldest individuals. In the event that an eligible individual is deceased at the time of payment, H.R. 442 would provide that the ~~restitution be paid to a surviving spouse, surviving children, or surviving parents.~~
- clarify that the restitution payments shall be considered as "damages for human suffering" for purposes of Federal tax laws;
- require the Archivist of the United States to maintain certain documents concerning the relocation, evacuation and internment and to make such documents available for public research;
- ~~request the Attorney General to (1) review convictions of violations of wartime restrictions by certain persons of Japanese ancestry who were interned or relocated and (2) submit pardon recommendations to the President, where appropriate; and~~
- require each Federal department and agency to review applications for restitution of positions or entitlements lost because of discriminatory acts during the evacuation, relocation and internment period by the United States based upon an individual's Japanese ancestry.

Provisions Concerning Persons from Pribilof and Aleutian Islands

Major provisions of H.R. 442 concerning restitution for persons from the Pribilof and Aleutian Islands who were relocated during World War II would:

- ~~authorize appropriations~~ of "such sums as are necessary" to provide ~~\$12,000~~ in restitution to each eligible person who is living on the date of enactment of the enrolled bill;
- provide that such payments be considered as "~~damages for human suffering~~" for Federal income tax purposes, and that such payment shall be in full satisfaction of all claims against the United States arising from the relocation;
- authorize appropriations of \$5 million for a trust fund to provide scholarship and other assistance to residents of certain Aleutian villages;
- authorize appropriations of \$1.4 million to compensate affected Aleutian villages for church property lost or destroyed during World War II. (The amount of money actually deposited in a trust fund to be established for this purpose would be determined by the Secretary of the Interior, based on an assessment by an "administrator" appointed by the Secretary.);
- authorize the Secretary of the Interior to provide up to \$15 million (from a newly-established Aleutian and Pribilof Islands Restitution Fund) to the Aleut Corporation (a for-profit corporation for the Aleut region established under the Alaska Native Claims Settlement Act) as compensation for the Aleuts' loss of lands on Attu Island; and
- permit the Secretary to convey to the Corporation the United States' interest in the surface estate of the traditional Aleut village site on Attu Island. The value of such a transfer would be deducted, however, from any payment made by the Secretary.

In addition to various other provisions governing the administration of the two restitution programs, H.R. 442 states that ~~nothing in the enrolled bill is to be construed (1) as recognizing any claim of Mexico or any Indian tribe or (2) as providing any basis for compensation in connection with any such claim.~~ The total cost of this legislation is estimated to be \$1.29 billion.

Agency Views

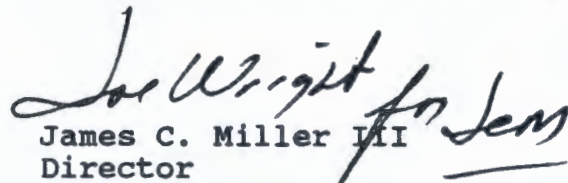
The Department of Justice has advised informally that it has various concerns about H.R. 442, but does not make a recommendation with respect to the enrolled bill. Justice believes that ~~the bill's pardon provision is unnecessary, as the Government has already offered to vacate the conviction of all Japanese-Americans who have been convicted of violating certain wartime restrictions.~~ Justice is also concerned about the ~~administrative burdens that would be imposed on the Attorney~~

General concerning efforts to locate eligible individuals of Japanese ancestry. In addition, the Department notes that the bill contains several ambiguous provisions that may result in litigation. Finally, Justice raises possible constitutional concerns about (1) the appointment of an "administrator" to administer certain expenditures from the Aleutian and Pribilof Islands Restitution Fund, and (2) the intertwining of church and state functions in provisions that award compensation for damaged or destroyed church property.

The Department of the Interior, while having no objection to approval of H.R. 442, has advised informally that it has a number of concerns about the enrolled bill (e.g., possible difficulties in setting up and administering the Aleutian and Pribilof Islands Restitution Fund). In addition, Interior believes that the compensation that would be provided by the enrolled bill for lost acreage on Attu Island (up to \$15 million) is unnecessary, as Interior believes that the Aleuts have been adequately compensated for this loss under earlier statutes.

Conclusion and Recommendation

In your letter of August 1, 1988, to the leadership of the House of Representatives, you stated that enactment of H.R. 442 would close a sad chapter in American history in a manner "that reaffirms America's commitment to the preservation of liberty and justice for all." Accordingly, we recommend that you approve the enrolled bill. We understand that White House staff will be preparing a signing statement for your use at a White House bill signing ceremony.


James C. Miller III
Director

Enclosures

One Hundredth Congress of the United States of America

AT THE SECOND SESSION

*Begun and held at the City of Washington on Monday, the twenty-fifth day of January,
one thousand nine hundred and eighty-eight*

An Act

To implement recommendations of the Commission on Wartime Relocation and Internment of Civilians.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. PURPOSES.

The purposes of this Act are to—

- (1) acknowledge the fundamental injustice of the evacuation, relocation, and internment of United States citizens and permanent resident aliens of Japanese ancestry during World War II;
- (2) apologize on behalf of the people of the United States for the evacuation, relocation, and internment of such citizens and permanent resident aliens;
- (3) provide for a public education fund to finance efforts to inform the public about the internment of such individuals so as to prevent the recurrence of any similar event;
- (4) make restitution to those individuals of Japanese ancestry who were interned;
- (5) make restitution to Aleut residents of the Pribilof Islands and the Aleutian Islands west of Unimak Island, in settlement of United States obligations in equity and at law, for—
 - (A) injustices suffered and unreasonable hardships endured while those Aleut residents were under United States control during World War II;
 - (B) personal property taken or destroyed by United States forces during World War II;
 - (C) community property, including community church property, taken or destroyed by United States forces during World War II; and
 - (D) traditional village lands on Attu Island not rehabilitated after World War II for Aleut occupation or other productive use;
- (6) discourage the occurrence of similar injustices and violations of civil liberties in the future; and
- (7) make more credible and sincere any declaration of concern by the United States over violations of human rights committed by other nations.

SEC. 2. STATEMENT OF THE CONGRESS.

(a) WITH REGARD TO INDIVIDUALS OF JAPANESE ANCESTRY.—The Congress recognizes that, as described by the Commission on Wartime Relocation and Internment of Civilians, a grave injustice was done to both citizens and permanent resident aliens of Japanese ancestry by the evacuation, relocation, and internment of civilians during World War II. As the Commission documents, these actions were carried out without adequate security reasons and without any acts of espionage or sabotage documented by the Commission, and were motivated largely by racial prejudice, wartime hysteria, and a

failure of political leadership. The excluded individuals of Japanese ancestry suffered enormous damages, both material and intangible, and there were incalculable losses in education and job training, all of which resulted in significant human suffering for which appropriate compensation has not been made. For these fundamental violations of the basic civil liberties and constitutional rights of these individuals of Japanese ancestry, the Congress apologizes on behalf of the Nation.

(b) **WITH RESPECT TO THE ALEUTS.**—The Congress recognizes that, as described by the Commission on Wartime Relocation and Internment of Civilians, the Aleut civilian residents of the Pribilof Islands and the Aleutian Islands west of Unimak Island were relocated during World War II to temporary camps in isolated regions of southeast Alaska where they remained, under United States control and in the care of the United States, until long after any potential danger to their home villages had passed. The United States failed to provide reasonable care for the Aleuts, and this resulted in widespread illness, disease, and death among the residents of the camps; and the United States further failed to protect Aleut personal and community property while such property was in its possession or under its control. The United States has not compensated the Aleuts adequately for the conversion or destruction of personal property, and the conversion or destruction of community property caused by the United States military occupation of Aleut villages during World War II. There is no remedy for injustices suffered by the Aleuts during World War II except an Act of Congress providing appropriate compensation for those losses which are attributable to the conduct of United States forces and other officials and employees of the United States.

TITLE I—UNITED STATES CITIZENS OF JAPANESE ANCESTRY AND RESIDENT JAPANESE ALIENS

SEC 101. SHORT TITLE.

This title may be cited as the "Civil Liberties Act of 1988".

SEC. 102. REMEDIES WITH RESPECT TO CRIMINAL CONVICTIONS.

(a) **REVIEW OF CONVICTIONS.**—The Attorney General is requested to review any case in which an individual living on the date of the enactment of this Act was, while a United States citizen or permanent resident alien of Japanese ancestry, convicted of a violation of—

- (1) Executive Order Numbered 9066, dated February 19, 1942;
- (2) the Act entitled "An Act to provide a penalty for violation of restrictions or orders with respect to persons entering, remaining in, leaving, or committing any act in military areas or zones", approved March 21, 1942 (56 Stat. 173); or
- (3) any other Executive order, Presidential proclamation, law of the United States, directive of the Armed Forces of the United States, or other action taken by or on behalf of the United States or its agents, representatives, officers, or employees, respecting the evacuation, relocation, or internment of individuals solely on the basis of Japanese ancestry;

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on account of the refusal by such individual, during the evacuation, relocation, and internment period, to accept treatment which discriminated against the individual on the basis of the individual's Japanese ancestry.

(b) **RECOMMENDATIONS FOR PARDONS.**—Based upon any review under subsection (a), the Attorney General is requested to recommend to the President for pardon consideration those convictions which the Attorney General considers appropriate.

(c) **ACTION BY THE PRESIDENT.**—In consideration of the statement of the Congress set forth in section 2(a), the President is requested to offer pardons to any individuals recommended by the Attorney General under subsection (b).

SEC. 103. CONSIDERATION OF COMMISSION FINDINGS BY DEPARTMENTS AND AGENCIES.

(a) **REVIEW OF APPLICATIONS BY ELIGIBLE INDIVIDUALS.**—Each department and agency of the United States Government shall review with liberality, giving full consideration to the findings of the Commission and the statement of the Congress set forth in section 2(a), any application by an eligible individual for the restitution of any position, status, or entitlement lost in whole or in part because of any discriminatory act of the United States Government against such individual which was based upon the individual's Japanese ancestry and which occurred during the evacuation, relocation, and internment period.

(b) **NO NEW AUTHORITY CREATED.**—Subsection (a) does not create any authority to grant restitution described in that subsection, or establish any eligibility to apply for such restitution.

SEC. 104. TRUST FUND.

(a) **ESTABLISHMENT.**—There is established in the Treasury of the United States the Civil Liberties Public Education Fund, which shall be administered by the Secretary of the Treasury.

(b) **INVESTMENT OF AMOUNTS IN THE FUND.**—Amounts in the Fund shall be invested in accordance with section 9702 of title 31, United States Code.

(c) **USES OF THE FUND.**—Amounts in the Fund shall be available only for disbursement by the Attorney General under section 105 and by the Board under section 106.

(d) **TERMINATION.**—The Fund shall terminate not later than the earlier of the date on which an amount has been expended from the Fund which is equal to the amount authorized to be appropriated to the Fund by subsection (e), and any income earned on such amount, or 10 years after the date of the enactment of this Act. If all of the amounts in the Fund have not been expended by the end of that 10-year period, investments of amounts in the Fund shall be liquidated and receipts thereof deposited in the Fund and all funds remaining in the Fund shall be deposited in the miscellaneous receipts account in the Treasury.

(e) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated to the Fund \$1,250,000,000, of which not more than \$500,000,000 may be appropriated for any fiscal year. Any amounts appropriated pursuant to this section are authorized to remain available until expended.

SEC. 105. RESTITUTION.

(a) **LOCATION AND PAYMENT OF ELIGIBLE INDIVIDUALS.**—

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(1) **IN GENERAL.**—Subject to paragraph (6), the Attorney General shall, subject to the availability of funds appropriated to the Fund for such purpose, **pay out of the Fund to each eligible individual the sum of \$20,000**, unless such individual refuses, in the manner described in paragraph (4), to accept the payment.

(2) **LOCATION OF ELIGIBLE INDIVIDUALS.**—~~The Attorney General shall identify and locate, without requiring any application for payment and using records already in the possession of the United States Government, each eligible individual.~~ The Attorney General should use funds and resources available to the Attorney General, including those described in subsection (c), to attempt to complete such identification and location within 12 months after the date of the enactment of this Act. Any eligible individual may notify the Attorney General that such individual is an eligible individual, and may provide documentation therefor. The Attorney General shall designate an officer or employee to whom such notification and documentation may be sent, shall maintain a list of all individuals who submit such notification and documentation, and shall, subject to the availability of funds appropriated for such purpose, encourage, through a public awareness campaign, each eligible individual to submit his or her current address to such officer or employee. To the extent that resources referred to in the second sentence of this paragraph are not sufficient to complete the identification and location of all eligible individuals, there are authorized to be appropriated such sums as may be necessary for such purpose. In any case, the identification and location of all eligible individuals shall be completed within 12 months after the appropriation of funds under the preceding sentence. Failure to be identified and located by the end of the 12-month period specified in the preceding sentence shall not preclude an eligible individual from receiving payment under this section.

(3) **NOTICE FROM THE ATTORNEY GENERAL.**—The Attorney General shall, when funds are appropriated to the Fund for payments to an eligible individual under this section, notify that eligible individual in writing of his or her eligibility for payment under this section. Such notice shall inform the eligible individual that—

(A) acceptance of payment under this section shall be in full satisfaction of all claims against the United States arising out of acts described in section 108(2)(B), and

(B) each eligible individual who does not refuse, in the manner described in paragraph (4), to accept payment under this section within 18 months after receiving such written notice shall be deemed to have accepted payment for purposes of paragraph (5).

(4) **EFFECT OF REFUSAL TO ACCEPT PAYMENT.**—If an eligible individual refuses, in a written document filed with the Attorney General, to accept any payment under this section, the amount of such payment shall remain in the Fund and no payment may be made under this section to such individual at any time after such refusal.

(5) **PAYMENT IN FULL SETTLEMENT OF CLAIMS AGAINST THE UNITED STATES.**—The acceptance of payment by an eligible individual under this section shall be in full satisfaction of all claims against the United States arising out of acts described in section 108(2)(B). This paragraph shall apply to any eligible

individual who does not refuse, in the manner described in paragraph (4), to accept payment under this section within 18 months after receiving the notification from the Attorney General referred to in paragraph (3).

(6) **EXCLUSION OF CERTAIN INDIVIDUALS.**—No payment may be made under this section to any individual who, after September 1, 1987, accepts payment pursuant to an award of a final judgment or a settlement on a claim against the United States for acts described in section 108(2)(B), or to any surviving spouse, child, or parent of such individual to whom paragraph (6) applies.

(7) **PAYMENTS IN THE CASE OF DECEASED PERSONS.**—(A) In the case of an eligible individual who is deceased at the time of payment under this section, such payment shall be made only as follows:

(i) If the eligible individual is survived by a spouse who is living at the time of payment, such payment shall be made to such surviving spouse.

(ii) If there is no surviving spouse described in clause (i), such payment shall be made in equal shares to all children of the eligible individual who are living at the time of payment.

(iii) If there is no surviving spouse described in clause (i) and if there are no children described in clause (ii), such payment shall be made in equal shares to the parents of the eligible individual who are living at the time of payment.

If there is no surviving spouse, children, or parents described in clauses (i), (ii), and (iii), the amount of such payment shall remain in the Fund, and may be used only for the purposes set forth in section 106(b).

(B) After the death of an eligible individual, this subsection and subsections (c) and (f) shall apply to the individual or individuals specified in subparagraph (A) to whom payment under this section will be made, to the same extent as such subsections apply to the eligible individual.

(C) For purposes of this paragraph—

(i) the "spouse" of an eligible individual means a wife or husband of an eligible individual who was married to that eligible individual for at least 1 year immediately before the death of the eligible individual;

(ii) a "child" of an eligible individual includes a recognized natural child, a stepchild who lived with the eligible individual in a regular parent-child relationship, and an adopted child; and

(iii) a "parent" of an eligible individual includes fathers and mothers through adoption.

(b) **ORDER OF PAYMENTS.**—The Attorney General shall endeavor to make payments under this section to eligible individuals in the order of date of birth (with the oldest individual on the date of the enactment of this Act (or, if applicable, that individual's survivors under paragraph (6)) receiving full payment first), until all eligible individuals have received payment in full.

(c) **RESOURCES FOR LOCATING ELIGIBLE INDIVIDUALS.**—In attempting to locate any eligible individual, the Attorney General may use any facility or resource of any public or nonprofit organization or any other record, document, or information that may be made available to the Attorney General.

(d) **ADMINISTRATIVE COSTS NOT PAID FROM THE FUND.**—No costs incurred by the Attorney General in carrying out this section shall be paid from the Fund or set off against, or otherwise deducted from, any payment under this section to any eligible individual.

(e) **TERMINATION OF DUTIES OF ATTORNEY GENERAL.**—The duties of the Attorney General under this section shall cease when the Fund terminates.

(f) **CLARIFICATION OF TREATMENT OF PAYMENTS UNDER OTHER LAWS.**—Amounts paid to an eligible individual under this section—

(1) shall be treated for purposes of the internal revenue laws of the United States as damages for human suffering; and

(2) shall not be included as income or resources for purposes of determining eligibility to receive benefits described in section 3803(c)(2)(C) of title 31, United States Code, or the amount of such benefits.

SEC. 106. BOARD OF DIRECTORS OF THE FUND.

(a) **ESTABLISHMENT.**—There is established the Civil Liberties Public Education Fund Board of Directors, which shall be responsible for making disbursements from the Fund in the manner provided in this section.

(b) **USES OF FUND.**—The Board may make disbursements from the Fund only—

(1) to sponsor research and public educational activities, and to publish and distribute the hearings, findings, and recommendations of the Commission, so that the events surrounding the evacuation, relocation, and internment of United States citizens and permanent resident aliens of Japanese ancestry will be remembered, and so that the causes and circumstances of this and similar events may be illuminated and understood; and

(2) for reasonable administrative expenses of the Board, including expenses incurred under subsections (c)(3), (d), and (e).

(c) **MEMBERSHIP.**—

(1) **APPOINTMENT.**—The Board shall be composed of 9 members appointed by the President, by and with the advice and consent of the Senate, from individuals who are not officers or employees of the United States Government.

(2) **TERMS.**—(A) Except as provided in subparagraphs (B) and (C), members shall be appointed for terms of 3 years.

(B) Of the members first appointed—

(i) 5 shall be appointed for terms of 3 years, and

(ii) 4 shall be appointed for terms of 2 years,

as designated by the President at the time of appointment.

(C) Any member appointed to fill a vacancy occurring before the expiration of the term for which such member's predecessor was appointed shall be appointed only for the remainder of such term. A member may serve after the expiration of such member's term until such member's successor has taken office. No individual may be appointed as a member for more than 2 consecutive terms.

(3) **COMPENSATION.**—Members of the Board shall serve without pay, except that members of the Board shall be entitled to reimbursement for travel, subsistence, and other necessary expenses incurred by them in carrying out the functions of the Board, in the same manner as persons employed intermittently

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in the United States Government are allowed expenses under section 5703 of title 5, United States Code.

(4) **QUORUM.**—5 members of the Board shall constitute a quorum but a lesser number may hold hearings.

(5) **CHAIR.**—The Chair of the Board shall be elected by the members of the Board.

(d) **DIRECTOR AND STAFF.**—

(1) **DIRECTOR.**—The Board shall have a Director who shall be appointed by the Board.

(2) **ADDITIONAL STAFF.**—The Board may appoint and fix the pay of such additional staff as it may require.

(3) **APPLICABILITY OF CIVIL SERVICE LAWS.**—The Director and the additional staff of the Board may be appointed without regard to section 5311(b) of title 5, United States Code, and without regard to the provisions of such title governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, except that the compensation of any employee of the Board may not exceed a rate equivalent to the minimum rate of basic pay payable for GS-18 of the General Schedule under section 5332(a) of such title.

(e) **ADMINISTRATIVE SUPPORT SERVICES.**—The Administrator of General Services shall provide to the Board on a reimbursable basis such administrative support services as the Board may request.

(f) **GIFTS AND DONATIONS.**—The Board may accept, use, and dispose of gifts or donations of services or property for purposes authorized under subsection (b).

(g) **ANNUAL REPORTS.**—Not later than 12 months after the first meeting of the Board and every 12 months thereafter, the Board shall transmit to the President and to each House of the Congress a report describing the activities of the Board.

(h) **TERMINATION.**—90 days after the termination of the Fund, the Board shall terminate and all obligations of the Board under this section shall cease.

SEC. 107. DOCUMENTS RELATING TO THE INTERNMENT.

(a) **PRESERVATION OF DOCUMENTS IN NATIONAL ARCHIVES.**—All documents, personal testimony, and other records created or received by the Commission during its inquiry shall be kept and maintained by the Archivist of the United States who shall preserve such documents, testimony, and records in the National Archives of the United States. The Archivist shall make such documents, testimony, and records available to the public for research purposes.

(b) **PUBLIC AVAILABILITY OF CERTAIN RECORDS OF THE HOUSE OF REPRESENTATIVES.**—(1) The Clerk of the House of Representatives is authorized to permit the Archivist of the United States to make available for use records of the House not classified for national security purposes, which have been in existence for not less than thirty years, relating to the evacuation, relocation, and internment of individuals during the evacuation, relocation, and internment period.

(2) This subsection is enacted as an exercise of the rulemaking power of the House of Representatives, but is applicable only with respect to the availability of records to which it applies, and supersedes other rules only to the extent that the time limitation established by this section with respect to such records is specifically

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inconsistent with such rules, and is enacted with full recognition of the constitutional right of the House to change its rules at any time, in the same manner and to the same extent as in the case of any other rule of the House.

SEC. 108. DEFINITIONS.

For the purposes of this title—

(1) the term "evacuation, relocation, and internment period" means that period beginning on December 7, 1941, and ending on June 30, 1946;

(2) the term "eligible individual" means any individual of Japanese ancestry who is living on the date of the enactment of this Act and who, during the evacuation, relocation, and internment period—

(A) was a United States citizen or a permanent resident alien; and

(B)(i) was confined, held in custody, relocated, or otherwise deprived of liberty or property as a result of—

(I) Executive Order Numbered 9066, dated February 19, 1942;

(II) the Act entitled "An Act to provide a penalty for violation of restrictions or orders with respect to persons entering, remaining in, leaving, or committing any act in military areas or zones", approved March 21, 1942 (56 Stat. 173); or

(III) any other Executive order, Presidential proclamation, law of the United States, directive of the Armed Forces of the United States, or other action taken by or on behalf of the United States or its agents, representatives, officers, or employees, respecting the evacuation, relocation, or internment of individuals solely on the basis of Japanese ancestry; or

(ii) was enrolled on the records of the United States Government during the period beginning on December 7, 1941, and ending on June 30, 1946, as being in a prohibited military zone;

except that the term "eligible individual" does not include any individual who, during the period beginning on December 7, 1941, and ending on September 2, 1945, relocated to a country while the United States was at war with that country;

(3) the term "permanent resident alien" means an alien lawfully admitted into the United States for permanent residence;

(4) the term "Fund" means the Civil Liberties Public Education Fund established in section 104;

(5) the term "Board" means the Civil Liberties Public Education Fund Board of Directors established in section 106; and

(6) the term "Commission" means the Commission on Wartime Relocation and Internment of Civilians, established by the Commission on Wartime Relocation and Internment of Civilians Act (Public Law 96-317; 50 U.S.C. App. 1981 note).

SEC. 109. COMPLIANCE WITH BUDGET ACT.

No authority under this title to enter into contracts or to make payments shall be effective in any fiscal year except to such extent and in such amounts as are provided in advance in appropriations Acts. In any fiscal year, total benefits conferred by this title shall be

limited to an amount not in excess of the appropriations for such fiscal year. Any provision of this title which, directly or indirectly, authorizes the enactment of new budget authority shall be effective only for fiscal year 1989 and thereafter.

TITLE II—ALEUTIAN AND PRIBILOF ISLANDS RESTITUTION

SEC. 201. SHORT TITLE.

This title may be cited as the "Aleutian and Pribilof Islands Restitution Act".

SEC. 202. DEFINITIONS.

As used in this title—

(1) the term "Administrator" means the person appointed by the Secretary under section 204;

(2) the term "affected Aleut villages" means the surviving Aleut villages of Akutan, Atka, Nikolski, Saint George, Saint Paul, and Unalaska, and the Aleut village of Attu, Alaska;

(3) the term "Association" means the Aleutian/Pribilof Islands Association, Inc., a nonprofit regional corporation established for the benefit of the Aleut people and organized under the laws of the State of Alaska;

(4) the term "Corporation" means the Aleut Corporation, a for-profit regional corporation for the Aleut region organized under the laws of the State of Alaska and established under section 7 of the Alaska Native Claims Settlement Act (Public Law 92-203; 43 U.S.C. 1606);

(5) the term "eligible Aleut" means any Aleut living on the date of the enactment of this Act—

(A) who, as a civilian, was relocated by authority of the United States from his or her home village on the Pribilof Islands or the Aleutian Islands west of Unimak Island to an internment camp, or other temporary facility or location, during World War II; or

(B) who was born while his or her natural mother was subject to such relocation;

(6) the term "Secretary" means the Secretary of the Interior;

(7) the term "Fund" means the Aleutian and Pribilof Islands Restitution Fund established in section 203; and

(8) the term "World War II" means the period beginning on December 7, 1941, and ending on September 2, 1945.

SEC. 203. ALEUTIAN AND PRIBILOF ISLANDS RESTITUTION FUND.

(a) **ESTABLISHMENT.**—There is established in the Treasury of the United States the Aleutian and Pribilof Islands Restitution Fund, which shall be administered by the Secretary. The Fund shall consist of amounts appropriated to it pursuant to this title.

(b) **REPORT.**—The Secretary shall report to the Congress, not later than 60 days after the end of each fiscal year, on the financial condition of the Fund, and the results of operations of the Fund, during the preceding fiscal year and on the expected financial condition and operations of the Fund during the current fiscal year.

(c) **INVESTMENT.**—Amounts in the Fund shall be invested in accordance with section 9702 of title 31, United States Code.

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(d) **TERMINATION.**—The Secretary shall terminate the Fund 3 years after the date of the enactment of this Act, or 1 year following disbursement of all payments from the Fund, as authorized by this title, whichever occurs later. On the date the Fund is terminated, all investments of amounts in the Fund shall be liquidated by the Secretary and receipts thereof deposited in the Fund and all funds remaining in the Fund shall be deposited in the miscellaneous receipts account in the Treasury.

SEC. 204. APPOINTMENT OF ADMINISTRATOR.

As soon as practicable after the date of the enactment of this Act, the Secretary shall offer to undertake negotiations with the Association, leading to the execution of an agreement with the Association to serve as Administrator under this title. The Secretary may appoint the Association as Administrator if such agreement is reached within 90 days after the date of the enactment of this title. If no such agreement is reached within such period, the Secretary shall appoint another person as Administrator under this title, after consultation with leaders of affected Aleut villages and the Corporation.

SEC. 205. COMPENSATION FOR COMMUNITY LOSSES.

(a) **IN GENERAL.**—Subject to the availability of funds appropriated to the Fund, the Secretary shall make payments from the Fund, in accordance with this section, as restitution for certain Aleut losses sustained in World War II.

(b) **TRUST.**—

(1) **ESTABLISHMENT.**—The Secretary shall, subject to the availability of funds appropriated for this purpose, establish a trust for the purposes set forth in this section. Such trust shall be established pursuant to the laws of the State of Alaska, and shall be maintained and operated by not more than seven trustees, as designated by the Secretary. Each affected Aleut village may submit to the Administrator a list of three prospective trustees. The Secretary, after consultation with the Administrator, affected Aleut villages, and the Corporation, shall designate not more than seven trustees from such lists as submitted.

(2) **ADMINISTRATION OF TRUST.**—The trust established under this subsection shall be administered in a manner that is consistent with the laws of the State of Alaska, and as prescribed by the Secretary, after consultation with representatives of eligible Aleuts, the residents of affected Aleut villages, and the Administrator.

(c) **ACCOUNTS FOR THE BENEFIT OF ALEUTS.**—

(1) **IN GENERAL.**—The Secretary shall deposit in the trust such sums as may be appropriated for the purposes set forth in this subsection. The trustees shall maintain and operate 8 independent and separate accounts in the trust for purposes of this subsection, as follows:

(A) One account for the independent benefit of the wartime Aleut residents of Attu and their descendants.

(B) Six accounts for the benefit of the 6 surviving affected Aleut villages, one each for the independent benefit of Akutan, Atka, Nikolski, Saint George, Saint Paul, and Unalaska, respectively.

(C) One account for the independent benefit of those Aleuts who, as determined by the Secretary, upon the advice of the trustees, are deserving but will not benefit directly from the accounts established under subparagraphs (A) and (B).

The trustees shall credit to the account described in subparagraph (C) an amount equal to 5 percent of the principal amount deposited by the Secretary in the trust under this subsection. Of the remaining principal amount, an amount shall be credited to each account described in subparagraphs (A) and (B) which bears the same proportion to such remaining principal amount as the Aleut civilian population, as of June 1, 1942, of the village with respect to which such account is established bears to the total civilian Aleut population on such date of all affected Aleut villages.

(2) USES OF ACCOUNTS.—The trustees may use the principal, accrued interest, and other earnings of the accounts maintained under paragraph (1) for—

(A) the benefit of elderly, disabled, or seriously ill persons on the basis of special need;

(B) the benefit of students in need of scholarship assistance;

(C) the preservation of Aleut cultural heritage and historical records;

(D) the improvement of community centers in affected Aleut villages; and

(E) other purposes to improve the condition of Aleut life, as determined by the trustees.

(3) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated \$5,000,000 to the Fund to carry out this subsection.

(d) COMPENSATION FOR DAMAGED OR DESTROYED CHURCH PROPERTY.—

(1) INVENTORY AND ASSESSMENT OF PROPERTY.—The Administrator shall make an inventory and assessment of real and personal church property of affected Aleut villages which was damaged or destroyed during World War II. In making such inventory and assessment, the Administrator shall consult with the trustees of the trust established under subsection (b), residents of affected Aleut villages, affected church members and leaders, and the clergy of the churches involved. Within 1 year after the date of the enactment of this Act, the Administrator shall submit such inventory and assessment, together with an estimate of the present replacement value of lost or destroyed furnishings and artifacts, to the Secretary.

(2) REVIEW BY THE SECRETARY; DEPOSIT IN THE TRUST.—The Secretary shall review the inventory and assessment provided under paragraph (1), and shall deposit in the trust established under subsection (b) an amount reasonably calculated by the Secretary to compensate affected Aleut villages for church property lost, damaged, or destroyed during World War II.

(3) DISTRIBUTION OF COMPENSATION.—The trustees shall distribute the amount deposited in the trust under paragraph (2) for the benefit of the churches referred to in this subsection.

(4) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Fund \$1,400,000 to carry out this subsection.

H. R. 442—12

(c) **ADMINISTRATIVE AND LEGAL EXPENSES.**—

(1) **REIMBURSEMENT FOR EXPENSES.**—The Secretary shall reimburse the Administrator, not less often than annually, for reasonable and necessary administrative and legal expenses in carrying out the Administrator's responsibilities under this title.

(2) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated to the Fund such sums as are necessary to carry out this subsection.

SEC. 206. INDIVIDUAL COMPENSATION OF ELIGIBLE ALEUTS.

(a) **PAYMENTS TO ELIGIBLE ALEUTS.**—In addition to payments made under section 205, the Secretary shall, in accordance with this section, make per capita payments out of the Fund to eligible Aleuts. The Secretary shall pay, subject to the availability of funds appropriated to the Fund for such payments, to each eligible Aleut the sum of \$12,000.

(b) **ASSISTANCE OF ATTORNEY GENERAL.**—The Secretary may request the Attorney General to provide reasonable assistance in locating eligible Aleuts residing outside the affected Aleut villages, and upon such request, the Attorney General shall provide such assistance. In so doing, the Attorney General may use available facilities and resources of the International Committee of the Red Cross and other organizations.

(c) **ASSISTANCE OF ADMINISTRATOR.**—The Secretary may request the assistance of the Administrator in identifying and locating eligible Aleuts for purposes of this section.

(d) **CLARIFICATION OF TREATMENT OF PAYMENTS UNDER OTHER LAWS.**—Amounts paid to an eligible Aleut under this section—

(1) shall be treated for purposes of the internal revenue laws of the United States as damages for human suffering, and

(2) shall not be included as income or resources for purposes of determining eligibility to receive benefits described in section 3803(c)(2)(C) of title 31, United States Code, or the amount of such benefits.

(e) **PAYMENT IN FULL SETTLEMENT OF CLAIMS AGAINST THE UNITED STATES.**—The payment to an eligible Aleut under this section shall be in full satisfaction of all claims against the United States arising out of the relocation described in section 202(5).

(f) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated to the Fund such sums as are necessary to carry out this section.

SEC. 207. ATTU ISLAND RESTITUTION PROGRAM.

(a) **PURPOSE OF SECTION.**—In accordance with section (3)(c) of the Wilderness Act (78 Stat. 892; 16 U.S.C. 1132(c)), the public lands on Attu Island, Alaska, within the National Wildlife Refuge System have been designated as wilderness by section 702(1) of the Alaska National Interest Lands Conservation Act (94 Stat. 2417; 16 U.S.C. 1132 note). In order to make restitution for the loss of traditional Aleut lands and village properties on Attu Island, while preserving the present designation of Attu Island lands as part of the National Wilderness Preservation System, compensation to the Aleut people, in lieu of the conveyance of Attu Island, shall be provided in accordance with this section.

(b) **ACREAGE DETERMINATION.**—Not later than 90 days after the date of the enactment of this Act, the Secretary shall, in accordance

with this subsection, determine the total acreage of land on Attu Island, Alaska, that, at the beginning of World War II, was subject to traditional use by the Aleut villagers of that island for subsistence and other purposes. In making such acreage determination, the Secretary shall establish a base acreage of not less than 35,000 acres within that part of eastern Attu Island traditionally used by the Aleut people, and shall, from the best available information, including information that may be submitted by representatives of the Aleut people, identify any such additional acreage on Attu Island that was subject to such use. The combination of such base acreage and such additional acreage shall constitute the acreage determination upon which payment to the Corporation under this section is based. The Secretary shall promptly notify the Corporation of the results of the acreage determination made under this subsection.

(c) VALUATION.—

(1) DETERMINATION OF VALUE.—Not later than 120 days after the date of the enactment of this Act, the Secretary shall determine the value of the Attu Island acreage determined under subsection (b), except that—

(A) such acreage may not be valued at less than \$350 per acre nor more than \$500 per acre; and

(B) the total valuation of all such acreage may not exceed \$15,000,000.

(2) FACTORS IN MAKING DETERMINATION.—In determining the value of the acreage under paragraph (1), the Secretary shall take into consideration such factors as the Secretary considers appropriate, including—

(A) fair market value;

(B) environmental and public interest value; and

(C) established precedents for valuation of comparable wilderness lands in the State of Alaska.

(3) NOTIFICATION OF DETERMINATION; APPEAL.—The Secretary shall promptly notify the Corporation of the determination of value made under this subsection, and such determination shall constitute the final determination of value unless the Corporation, within 30 days after the determination is made, appeals the determination to the Secretary. If such appeal is made, the Secretary shall, within 30 days after the appeal is made, review the determination in light of the appeal, and issue a final determination of the value of that acreage determined to be subject to traditional use under subsection (b).

(d) IN LIEU COMPENSATION PAYMENT.—

(1) PAYMENT.—The Secretary shall pay, subject to the availability of funds appropriated for such purpose, to the Corporation, as compensation for the Aleuts' loss of lands on Attu Island, the full amount of the value of the acreage determined under subsection (c), less the value (as determined under subsection (c)) of any land conveyed under subsection (e).

(2) PAYMENT IN FULL SETTLEMENT OF CLAIMS AGAINST THE UNITED STATES.—The payment made under paragraph (1) shall be in full satisfaction of any claim against the United States for the loss of traditional Aleut lands and village properties on Attu Island.

(e) VILLAGE SITE CONVEYANCE.—The Secretary may convey to the Corporation all right, title, and interest of the United States to the surface estate of the traditional Aleut village site on Attu Island, Alaska (consisting of approximately 10 acres) and to the surface

H. R. 442—14

estate of a parcel of land consisting of all land outside such village that is within 660 feet of any point on the boundary of such village. The conveyance may be made under the authority contained in section 14(h)(1) of the Alaska Native Claims Settlement Act (Public Law 92-203; 43 U.S.C. 1613(h)(1)), except that after the enactment of this Act, no site on Attu Island, Alaska, other than such traditional Aleut village site and such parcel of land, may be conveyed to the Corporation under such section 14(h)(1).

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated \$15,000,000 to the Secretary to carry out this section.

SEC. 208. COMPLIANCE WITH BUDGET ACT.

No authority under this title to enter into contracts or to make payments shall be effective in any fiscal year except to such extent and in such amounts as are provided in advance in appropriations Acts. In any fiscal year, the Secretary, with respect to—

- (1) the Fund established under section 203,
- (2) the trust established under section 205(b), and
- (3) the provisions of sections 206 and 207,

shall limit the total benefits conferred to an amount not in excess of the appropriations for such fiscal year. Any provision of this title which, directly or indirectly, authorizes the enactment of new budget authority shall be effective only for fiscal year 1989 and thereafter.

SEC. 209. SEVERABILITY.

If any provision of this title, or the application of such provision to any person or circumstance, is held invalid, the remainder of this title and the application of such provision to other persons not similarly situated or to other circumstances shall not be affected by such invalidation.

TITLE III—TERRITORY OR PROPERTY CLAIMS AGAINST UNITED STATES

SEC. 301. EXCLUSION OF CLAIMS.

Notwithstanding any other provision of law or of this Act, nothing in this Act shall be construed as recognition of any claim of Mexico or any other country or any Indian tribe (except as expressly provided in this Act with respect to the Aleut tribe of Alaska) to any territory or other property of the United States, nor shall this Act be construed as providing any basis for compensation in connection with any such claim.

THE WHITE HOUSE

WASHINGTON

July 29, 1988

MEMORANDUM FOR RHETT B. DAWSON
ASSISTANT TO THE PRESIDENT FOR OPERATIONS

FROM: C. DEAN MCGRATH, JR. *DMC*
ASSOCIATE COUNSEL TO THE PRESIDENT.

SUBJECT: Presidential Letter on Japanese-American
Internment Bill (H.R. 442)

Counsel's office has reviewed the above-referenced Presidential letter and, consistent with our previous advice on this issue, (see Memorandum from C. Dean McGrath, Jr., to Rhett B. Dawson (July 28, 1988), copy attached), we recommend that the reference to the legislation being "substantially improved" be deleted. In our view describing the legislation as substantially improved does not accurately reflect the amendments that were made to H.R. 442. We have marked this and several other minor editorial changes on the attached copy of the proposed letter.

Except as noted above, we have no legal objection to the proposed Presidential letter being sent to Speaker Wright and Republican Leader Michel.

Thank you for submitting this matter for our review.

Attachments

THE WHITE HOUSE
WASHINGTON

July 28, 1988

MEMORANDUM FOR RHETT B. DAWSON
ASSISTANT TO THE PRESIDENT FOR OPERATIONS

FROM: C. DEAN MCGRATH, JR. *CDM*
ASSOCIATE COUNSEL TO THE PRESIDENT.

SUBJECT: Draft Statement by the President on Passage of
H.R. 442, a Bill to Provide Compensation for
Americans of Japanese Descent Interned in the
United States During the Second World War

This will confirm my oral advice to your office that Counsel's office has reviewed the above-referenced Presidential Statement (as revised to reflect the deletion of the second paragraph and the reference to an apology in the third paragraph), and we recommend that the reference to the legislation being "substantially" improved be deleted. In our view describing the legislation as substantially improved does not accurately reflect the amendments that were made to H.R. 442.

Thank you for submitting this matter for our review.

[DRAFT LETTER TO SPEAKER WRIGHT AND REPUBLICAN LEADER MICHEL]

Dear Mr. Speaker/Dear Bob:

We welcome the action of the House-Senate conference on H.R. 442, a bill to provide compensation for Americans of Japanese descent interned in the United States during the Second World War. The bill reported from the conference and passed by the Senate on July 27 is ~~substantially improved~~ over the versions of the bill previously considered.

An improvement

We ~~were~~ ^{are} particularly pleased that the bill provides for a measured disbursement of the authorized trust fund and ensures that acceptance of compensation under the legislation fully satisfies claims based on internment.

The enactment of H.R. 442 will close a sad chapter in American history in a way that reaffirms America's commitment to the preservation of liberty and justice for all.

I urge the House of Representatives to act swiftly and favorably on the bill.

Sincerely,

WHITE HOUSE CORRESPONDENCE TRACKING WORKSHEET

- O - OUTGOING
 - H - INTERNAL
 - I - INCOMING
- Date Correspondence Received (YY/MM/DD) 1 1

Name of Correspondent: Rhett Dawson

MI Mail Report User Codes: (A) _____ (B) _____ (C) _____

Subject: Presidential Letters on Japanese-American Internment Bill (H.R. 442)

ROUTE TO:

ACTION

DISPOSITION

Office/Agency (Staff Name)	Action Code	Tracking Date YY/MM/DD	Type of Response	Code	Completion Date YY/MM/DD
<u>Cuholo</u>	ORIGINATOR	<u>88, 07, 29</u>			<u>1 1</u>
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ACTION CODES:

- A - Appropriate Action
- I - Info Copy Only/No Action Necessary
- C - Comment/Recommendation
- R - Direct Reply w/Copy
- D - Draft Response
- S - For Signature
- F - Furnish Fact Sheet to be used as Enclosure
- X - Interim Reply

DISPOSITION CODES:

- A - Answered
- C - Completed
- B - Non-Special Referral
- S - Suspended

FOR OUTGOING CORRESPONDENCE

- Type of Response - Initials of Signer
- Code - "A"
- Completion Date - Date of Outgoing

Comments: _____

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 Send all routing updates to Central Reference (Room 75, OEOB).
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 Refer questions about the correspondence tracking system to Central Reference, ext. 2590.

WHITE HOUSE STAFFING MEMORANDUM

DATE: 07/28/88 ACTION/CONCURRENCE/COMMENT DUE BY: C.O.B. Friday 07/29

SUBJECT: PRESIDENTIAL LETTERS ON JAPANESE-AMERICAN INTERNMENT BILL (H.R. 442)

	ACTION FYI			ACTION FYI	
VICE PRESIDENT	<input type="checkbox"/>	<input checked="" type="checkbox"/>	HOBBS	<input type="checkbox"/>	<input type="checkbox"/>
DUBERSTEIN	<input type="checkbox"/>	<input checked="" type="checkbox"/>	HOOLEY	<input type="checkbox"/>	<input type="checkbox"/>
POWELL	<input checked="" type="checkbox"/>	<input type="checkbox"/>	KRANOWITZ	<input type="checkbox"/>	<input checked="" type="checkbox"/>
MILLER - OMB	<input checked="" type="checkbox"/>	<input type="checkbox"/>	MASENG	<input checked="" type="checkbox"/>	<input type="checkbox"/>
OGLESBY	<input type="checkbox"/>	<input checked="" type="checkbox"/>	RANGE	<input checked="" type="checkbox"/>	<input type="checkbox"/>
BAUER	<input type="checkbox"/>	<input type="checkbox"/>	RISQUE	<input checked="" type="checkbox"/>	<input type="checkbox"/>
CRIBB	<input checked="" type="checkbox"/>	<input type="checkbox"/>	RYAN	<input type="checkbox"/>	<input type="checkbox"/>
CRIPPEN	<input checked="" type="checkbox"/>	<input type="checkbox"/>	SPRINKEL	<input type="checkbox"/>	<input type="checkbox"/>
CULVAHOUSE	<input checked="" type="checkbox"/>	<input type="checkbox"/>	TUCK	<input type="checkbox"/>	<input type="checkbox"/>
DAWSON	<input type="checkbox"/>	<input checked="" type="checkbox"/>	TUTTLE	<input type="checkbox"/>	<input type="checkbox"/>
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FITZWATER	<input type="checkbox"/>	<input checked="" type="checkbox"/>	_____	<input type="checkbox"/>	<input type="checkbox"/>

REMARKS:

Please provide any comments/recommendations directly to my office by close of business on Friday, 07/29. Thanks.

RESPONSE:

4:33 3:33

Rhett Dawson
Ext. 2702

WHITE HOUSE CORRESPONDENCE TRACKING WORKSHEET

- O - OUTGOING
- H - INTERNAL
- I - INCOMING
Date Correspondence Received (YY/MM/DD) 1/1

Name of Correspondent: Rhett Dawson

MI Mail Report User Codes: (A) _____ (B) _____ (C) _____

Subject: Draft statement on passage of H. R. 442 - Japanese internment

ROUTE TO: Office/Agency (Staff Name)	ACTION		DISPOSITION		
	Action Code	Tracking Date YY/MM/DD	Type of Response	Code	Completion Date YY/MM/DD
<u>cuholle</u>	ORIGINATOR	<u>8807, 28</u>			<u>1/1</u>
<u>cuat 24</u>	Referral Note: <u>R</u>	<u>8807, 28</u>			<u>ASAP</u>
	Referral Note:	<u>1/1</u>			<u>1/1</u>
	Referral Note:	<u>1/1</u>			<u>1/1</u>
	Referral Note:	<u>1/1</u>			<u>1/1</u>
	Referral Note:	<u>1/1</u>			<u>1/1</u>

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 - C - Completed
 - S - Suspended

FOR OUTGOING CORRESPONDENCE:
 Type of Response = Initials of Signer
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Comments: Per Katherine Fadd, the bill is being passed momentarily

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[DRAFT -- FOR RELEASE TODAY AFTER HOUSE PASSAGE OF H.R. 442,
PASSED BY THE SENATE YESTERDAY]

THE WHITE HOUSE

Office of the Press Secretary

For Immediate Release

July __, 1988

STATEMENT BY THE PRESIDENT

We welcome the passage by Congress of H.R. 442, a bill to provide compensation for Americans of Japanese descent interned in the United States during the Second World War. The bill reported from the House-Senate conference and just passed by both Houses is ~~substantially~~ improved over the versions of the bill previously considered.

In the early 1940's, our leaders, believing sincerely but wrongly that their actions were proper and necessary to ensure the security of the United States in a world at war, required relocation and internment in the United States of large numbers of Americans of Japanese descent. We recognize today that their decision was gravely mistaken and at odds with the fundamental values for which our Nation stands.

With enactment of H.R. 442, ~~the Congress will provide the apology of the Nation to those interned and authorize their compensation.~~ The legislation will close a sad chapter in American history in a way that reaffirms America's commitment to the preservation of liberty and justice for all.

THE WHITE HOUSE

WASHINGTON

April 20, 1988

MEMORANDUM FOR ARTHUR B. CULVAHOUSE, JR.

FROM:

C. DEAN MCGRATH, JR. *Wmch*

SUBJECT:

Japanese Internment Legislation (S. 1009) - Status
Report

On March 29, 1988, the President concurred with Senator Baker's recommendation that the Administration withhold any further threat of a veto of S. 1009 and explore the possibility of reducing the potential costs. See Memorandum from Howard H. Baker, Jr., to the President (Mar. 29, 1988).

On April 18, 1988, we advised the Office of Management and Budget that we had no objection to Justice advising Members of Congress about their constitutional concerns (equal protection and Appointments Clause issues), provided no veto threat was included. See Memorandum from C. Dean McGrath, Jr., to Branden Blum (Apr. 18, 1988).

On April 19, 1988, we cleared a Statement of Administration Policy that objected to S. 1009 on several grounds -- the number of people covered, including interns who sought to relocate in an enemy country; the cost; and coverage of persons from the Alaskan Aleutian Islands. The Statement did not include any reference to Justice's concerns. See Memorandum from C. Dean McGrath, Jr., to Rhett B. Dawson (Apr. 19, 1988).

Finally, on April 19, 1988, I orally advised the Office of Legal Counsel that we had no objection to Justice's proposed report being submitted, in writing, to the Senate. See Memorandum from C. Dean McGrath, Jr., to the File (Apr. 19, 1988).

THE WHITE HOUSE

WASHINGTON

March 29, 1988

MEMORANDUM FOR THE PRESIDENT

FROM: HOWARD H. BAKER, JR.

SUBJECT: RESTITUTION FOR JAPANESE INTERNMENT

I. ANALYSIS

The Senate will soon consider legislation to provide restitution to individuals of Japanese ancestry who were interned during World War II. Similar legislation passed the House on September 17 by a vote of 243-141. The Senate bill currently has 73 cosponsors. The Department of Justice has testified against both bills and OMB issued a Statement of Administration position opposing the House bill before its passage.

While there were reparations paid based on a 1948 Act, they amounted to only \$37 million for 26,500 claims. It is estimated that there remain 60,000 eligible Japanese Americans who were interned. Both bills are simple authorizations, requiring subsequent appropriations, which would have to fit under the budget agreement totals for next year.

II. RECOMMENDATION

I recommend that we withhold any further threat of a veto and explore with Congress the possibility of reducing the potential costs while making it clear we expect any subsequent appropriations to be in accord with our budget agreement.

III. DECISION

RR Approve

_____ Disapprove

_____ Approve as Amended

_____ No Action

THE WHITE HOUSE

WASHINGTON

April 18, 1988

MEMORANDUM FOR BRANDEN BLUM

OFFICE OF MANAGEMENT AND BUDGET

FROM:

C. DEAN MCGRATH, JR. *CDM*
ASSOCIATE COUNSEL TO THE PRESIDENT.

SUBJECT:

Department of Justice Draft Report on S. 1009 -
Wartime Relocation and Internment of Civilians

This memorandum will confirm my oral advice that Counsel's office has reviewed the above-referenced draft Department of Justice report on S. 1009 and, based on our understanding that the proposed report will not be formally submitted and that Justice will not recommend that the President veto S. 1009, we have no legal objection to the Justice Department briefing Members of Congress on the substance of their objections.

THE WHITE HOUSE
WASHINGTON

April 19, 1988

MEMORANDUM FOR THE FILE

FROM: C. DEAN MCGRATH, JR. *WRC*
ASSOCIATE COUNSEL TO THE PRESIDENT

SUBJECT: Japanese Internment Legislation (S. 1009)

On Tuesday, April 19, 1988, I orally advised the Office of Legal Counsel that we had no legal objection to the Department of Justice submitting its proposed report on S. 1009 to the Senate Judiciary Committee, provided that there was no reference to a veto threat.

THE WHITE HOUSE

WASHINGTON

April 19, 1988

MEMORANDUM FOR RHETT B. DAWSON
ASSISTANT TO THE PRESIDENT FOR OPERATIONS

FROM: C. DEAN MCGRATH, JR. *CM*
ASSOCIATE COUNSEL TO THE PRESIDENT

SUBJECT: Clearance of Statement of Administration
Policy on Japanese Internment (S. 1009)

Counsel's office has reviewed the above-referenced proposed Statement of Administration Policy on the Japanese internment legislation (S. 1009) and, based on our understanding that this matter has been discussed with the Department of Justice and that Justice will not recommend that the President veto the proposed legislation because of possible equal protection and Appointments Clause problems, we have no legal objection to the proposed Statement.

Thank you for submitting this proposed Statement for our review.

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET

ROUTE SLIP

TO ✓ A.B. Culvahouse, Jr.	Take necessary action	<input type="checkbox"/>
Bob Damus	Approval or signature	<input type="checkbox"/>
Tara Treacy	Comment	<input type="checkbox"/>
	Prepare reply	<input type="checkbox"/>
	Discuss with me	<input type="checkbox"/>
	For your information	<input type="checkbox"/>
	See remarks below	<input type="checkbox"/>
FROM Branden Blum	DATE	4/18/88

REMARKS

S. 1009 - Wartime Relocation and Internment
of Civilians

S. 1009 would, in part, provide \$20,000
restitutionary payments to persons of
Japanese ancestry who were interned during
World War II. The bill is expected to be
considered by the Senate tomorrow (4/19).

Please review the attached Justice draft
report (which raises constitutional concerns
and contains a veto threat) and provide
me with any comments by 2:30 p.m. today.

cc: J. Murr
K. Schwartz
C. Beebe

WHITE HOUSE CORRESPONDENCE TRACKING WORKSHEET

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Name of Correspondent: Branden Blum

MI Mail Report User Codes: (A) _____ (B) _____ (C) _____

Subject: Justice Draft Report on S. 1009 - Wartime Relocation and Internment of Civilians

ROUTE TO:	ACTION	DISPOSITION
Office/Agency (Staff Name)	Action Code	Tracking Date YY/MM/DD
<u>curhol</u>	ORIGINATOR	880418
<u>curat(24)</u>	R	88,04,18
	Referral Note:	5 88,04,18 2:30 pm
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	Referral Note:	1 / 1
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	Referral Note:	1 / 1

ACTION CODES:

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Comments: _____

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Office of the Assistant Attorney General

Washington, D.C. 20530

The Honorable Joseph R. Biden, Jr.
Chairman, Judiciary Committee
United States Senate
Washington, D.C. 20510
Dear Mr. Chairman:

DRAFT

This letter presents the views of the Department of Justice on S. 1009,¹ a bill to compensate citizens and resident aliens of Japanese ancestry who were relocated and interned during World War II and individuals of Aleut ancestry who were removed during the war from the Aleutian and the Pribilof Islands. For the reasons set forth below, we believe the bill would violate the Appointments Clause and the Due Process Clause of the Fifth Amendment of the Constitution. Unless the bill is amended to cure these violations, the Department will recommend that the President veto the bill.

The Japanese internment provisions of the bill, §§201-07, would establish a Civil Liberties Public Education Fund Board of Directors (the "Board"), §206(a), to assist the Attorney General in locating the individuals eligible to be paid the sum of \$20,000. §205(a)(1). The Board would also be authorized to make disbursements from a trust fund established for research and public awareness programs. §206(b). The bill requires that at least five of the nine member board be individuals of Japanese ancestry. §206(c)(1). In addition, the bill restricts the persons eligible to receive restitution to individuals of Japanese ancestry. §201(1).² We have two objections to this statutory plan.

~~First, the requirement that eligible recipients be of Japanese ancestry, §201(1), may violate the equal protection compo-~~

¹ These comments apply as well to H.R. 442.

² The bill also requests the Attorney General to review criminal convictions filed against individuals of Japanese ancestry during the evacuation, relocation and internment period, recommend individuals who meet specified criteria for pardon to the President, who in turn is requested to grant the pardon. §202. We have no constitutional objection to these provisions because they clearly impose no obligation upon the Attorney General or the

First, the requirement that eligible recipients be of Japanese ancestry, §201(1), may violate the equal protection component of the Fifth Amendment Due Process Clause.³ Congress plainly has the power to compensate individuals, including those whom it believes were unjustly interned during World War II. S. 1009, however, restricts the eligible class of beneficiaries to individuals of Japanese ancestry. If the eligible class consists only of individuals of Japanese ancestry, no constitutional difficulty arises, but then the requirement of Japanese ancestry is superfluous. On the other hand, if citizens other than Japanese are in the eligible class, a serious constitutional question arises because a classification based on race or national origin can be justified only by a compelling or substantial national interest. See, e.g., Bolling v. Sharpe, 347 U.S. 497, 499 (1954) (Pursuant to the Fifth Amendment, "[c]lassifications based solely upon race must be scrutinized with particular care, since they are contrary to our traditions and hence constitutionally suspect.") (footnote omitted); Wygant v. Jackson Bd. of Education, 476 U.S. 267 (1986) (racial classifications under the Fourteenth Amendment must serve compelling or at least important governmental objectives).

One possible justification for the requirement of Japanese ancestry would be a finding that during World War II only individuals of Japanese ancestry were interned because of animus based on race or national origin. The legislation, however, contains no such finding. In the absence of such a factually supportable finding, we can imagine no interest that justifies limiting eligibility to persons of Japanese ancestry.⁴ Under the current version of the bill, if any persons were interned on the basis of national origin other than those of Japanese ancestry, the classification scheme would deny them benefits solely because of their country of origin. While Congress can lawfully exclude from eligibility any individuals also interned for reasons of national security, or based on other non-suspect classifications, the exclusion of persons not of Japanese ancestry who were also interned for reasons of race or national origin raises a serious constitutional question.

Second, the bill's requirement that five of the nine members of the Board be individuals of Japanese ancestry violates the

³ The Due Process Clause of the Fifth Amendment bars "invidious racial discrimination," Morton v. Mancari, 417 U.S. 535, 552 (1974), and actions of the federal government "so unjustifiable as to be violative of due process." Bolling v. Sharpe, 347 U.S. 497, 499 (1954) (footnote omitted). In this respect, the Fifth Amendment Due Process Clause now incorporates an equal protection component.

⁴ Indeed, we believe that such discrimination is particularly inappropriate in legislation that seeks to compensate individuals for being interned on the basis of a racial or national origin

Appointments Clause and the equal protection component of the Due Process Clause. The Appointments Clause, U.S. Const. Art. II, §2, cl.2, requires that "officers of the United States," i.e., those persons who have "significant authority pursuant to the laws of the United States," Buckley v. Valeo, 424 U.S. 1, 126 (1976), be appointed by one of two methods. Any officer of the United States may be appointed by the President, subject to the advice and consent of the Senate, or the appointment of "inferior" officers in the executive branch may be vested by Congress in the President alone or the heads of the executive branch departments.

Because the Board, among other functions, would authorize disbursement of funds for research and educational activities, §206(b), it would exercise significant authority under the laws of the United States. Accordingly, its members would be officers of the United States who must be appointed pursuant to the Appointments Clause. All nine board members are to be appointed by the President, by and with the advice and consent of the Senate. §206(c)(1). The requirement that at least five members of the Board be individuals of Japanese ancestry, §206(c), impermissibly infringes on the President's constitutional authority to appoint the officers he deems suitable for the office Congress creates. The only check that the text of the Constitution places on power of appointment is the advice and consent of the Senate.

Moreover, the specification of Japanese ancestry for Board membership violates Fifth Amendment due process by discriminating based on race or national origin. As we observed above, classifications based on race or national origin, even those seeking to benefit rather than discriminate against a particular group, can be justified only by the existence of a compelling or important national interest. The policy preference to seat individuals of Japanese ancestry on the Board does not satisfy this standard because the functions assigned to the board -- assisting the Attorney General in locating eligible recipients and funding research programs -- can be performed regardless of racial ancestry. It is particularly unfortunate to revive classifications

⁴ (Cont.) classification.

⁵ In Morton v. Mancari, the Supreme Court upheld a federal statute giving members of federally recognized Indian tribes preference for employment with the Bureau of Indian Affairs. The Court found the preference constitutional because it was "reasonable and rationally designed to further Indian self-government." Morton, 417 U.S. at 555. Secondly, the preference was "granted to Indians not as a discrete racial group, but, rather, as members of quasi-sovereign tribal entities . . ." Id. at 554. Morton, however, does not support the present classification based on Japanese ancestry. The preferential treatment of American Indians reflects their unique constitutional and historical status. Id. at 551-55. Moreover, the legislative preference in

based on race or national origin in a bill whose declared purpose is to remedy injustices which flowed from an animus based on race or national origin. To cure these defects, the requirement that the Board be comprised of at least five members of Japanese ancestry must be deleted.

Sections 301-09 of S. 1009 proposes the separate enactment of the Aleutian and Pribilof Islands Restitution Act. It would establish a fund to be administered by the Secretary of the Interior, §303(a). Compensation would be provided for three categories of Aleut losses sustained in World War II: community losses compensated from a trust to be maintained and operated by not than seven trustees designated by the Secretary, §305, individual compensation for eligible Aleuts, §306, and a restitution program for Attu Island, §307.

We have no objection to the section 305 community loss provision because the benefits run to inhabitants of the affected Aleut villages, rather than to Aleuts only, and consequently similarly situated persons are not being denied benefits based on an impermissible classification. By contrast, section 306 restricts individual compensation to civilian Aleuts interned during the World War II or their children, if any, born while the mother was subject to relocation. §302(5). If all villagers falling within the bill's coverage are Aleuts, the restriction is a harmless, but nonetheless objectionable racial preference. If however non-Aleuts were also relocated from the Pribilof Islands or the Aleutian Islands west of Unimak Island, then, as with the internment of citizens of Japanese ancestry, similarly situated persons would be subject to discriminatory treatment. Even if the Aleuts would qualify as a "quasi-sovereign tribal entity," see supra note 5, the statutory restriction on individual beneficiaries does not relate to or advance an interest in self-government and, accordingly, would not be justified under Morton v. Mancari, supra.

Upon enactment of the bill, the Secretary is directed to offer to negotiate and execute an agreement with a nonprofit regional corporation established for the benefit of the Aleut people, the Aleutian/Pribilof Islands Association, Inc. (Association), to name an Administrator who would advise and inform the Secretary concerning expenditures from the fund. §304. The section further provides that the Secretary may appoint the Association as Administrator if an agreement is reached within 90

⁵ (Cont.) Morton did not impose a "racial" preference, but rather sanctioned a tribal classification related to the "legitimate, nonracially based goal" of Indian self-government. Id. at 554. By contrast, S. 1009 would explicitly classify eligible Board members based on a racial characteristic. The classification does not relate to a non-racially based interest in tribal self-government. Nor is it narrowly tailored or substantially related to the bill's aim of providing restitution

days of enactment, but that if no agreement is reached, the Secretary shall appoint an Administrator after consultation with the Association and affected Aleut village leaders. Id.

Congress may properly vest the appointment of the trustees, who would exercise significant authority in distributing trust funds, §305(b)(3), in an "inferior" officer, the Secretary of the Treasury, within the meaning of the Appointments Clause. To the extent, however, that the Administrator also would exercise significant authority under the laws of the United States, the bill impermissibly constrains the vesting of the appointment authority in the Secretary by mandating a 90-day negotiation period with the Association. Under these circumstances, the bill should be amended to suggest, but not require, that the Secretary consult with the Association for a 90-day period.

We object to this legislation unless it is amended to address the constitutional difficulties outlined in this letter. Should the measure be adopted in its current form, the Department of Justice will recommend that the President veto the bill.

The Office of Management and Budget has advised this Department that there is no objection to the submission of this report from the standpoint of the Administration's program.

Sincerely,

Thomas M. Boyd
Acting Assistant Attorney General

⁵ (Cont.) for citizens interned during World War II.

⁶ While the issue is not free from doubt, the powers granted the administrator would seem sufficient to make him an officer. In addition to the obligation to advise and inform the Secretary, §302(1), the Administrator is required to make an inventory and assessment of church property damaged or destroyed in affected Aleut villages during World War II, which he is to submit to the Secretary for review and subsequent payment. §305(c).



EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

April 18, 1988

MEMORANDUM FOR RHETT DAWSON
DAN CRIPPEN

THROUGH:

ALAN KRANOWITZ ^{AMK}
JOE WRIGHT *[Signature]*

FROM:

GORDON WHEELER *[Signature]*

SUBJECT:

Clearance of SAP on Japanese Internment

S. 1009 - Wartime Relocation and Internment of Japanese Civilians

Due to the sensitivity of this issue we wanted to run this Statement of Administration Policy through the channels one more time before transmitting it to the Hill.

As you know, it is very likely to be brought up on the Senate floor tomorrow.

Attached draft SAP



STATEMENT OF ADMINISTRATION POLICY

April 18, 1988
(Senate)

S. 1009 - Implement Recommendations of Commission on
Wartime Relocation and Internment of Civilians
(Matsunaga (D) Hawaii and 73 others)

The Administration would support S. 1009 if it were amended to:

- exclude restitutionary payments to (1) persons who relocated or sought relocation during World War II to a country at war with the United States, (2) persons who are not domiciled in the United States on the date of enactment of this bill, or (3) the estates of "eligible individuals" (i.e., require that payments be made only to living persons);
- provide that any payment received pursuant to S. 1009 is in full settlement of any claim of the individual against the United States based on internment;
- extend the authorization period from five years (\$500 million in 1989, \$400 million in 1990, \$200 million in 1991, and \$100 million in 1992 and 1993) to ten years at \$125 million per year;
- delete title III, concerning reparations to persons from the Alaskan Aleutian Islands who were relocated during World War II, because providing benefits for wartime hardships which resulted from proper actions (i.e., removal from a war zone) is not warranted.

* * * * *

(Not to be Distributed Outside Executive Office of the President)

This position was drafted by the Legislative Reference Division in consultation with the Department of Justice (Burton) and TCJ (Treacy).

Provisions of S. 1009

S. 1009 would implement the recommendations of the Commission on Wartime Relocation to provide restitution (\$20,000 to each eligible individual from a newly-established trust fund of approximately \$1.3 billion) to persons of Japanese ancestry who were interned during World War II. (The bill would not exclude payments to individuals who relocated, or attempted or requested to relocate, during World War II to a country at war with the United States.) Monies remaining in the fund after payments to

eligible persons (estimated to be approximately \$100 million) would be available for research and educational activities related to the internment. Other major provisions of S. 1009 would:

- request the Attorney General to review certain criminal convictions of interned persons and to submit pardon recommendations to the President;
- require all Federal departments and agencies to review applications for the restitution of positions or other benefits or entitlements lost because of discriminatory acts during World War II by the United States based upon an individual's Japanese ancestry;
- apologize on behalf of the United States to persons of Japanese ancestry who were interned during World War II;
- establish a Board of Directors of the newly-established trust fund to govern disbursements from the fund for research and educational purposes;
- authorize "such sums as are necessary" to provide \$12,000 in restitution to eligible Aleuts who were relocated from villages in the Aleutian or Pribilof Islands during World War II;
- establish a \$5 million trust fund to provide scholarship and other assistance to residents of certain Aleutian villages; and
- authorize the Secretary of the Interior to provide up to \$15 million to the Aleuts as compensation for the loss of ownership of Attu Island.

Legislative Reference Division Draft
4/18/88 -- 6:50 p.m.

**WHITE HOUSE
CORRESPONDENCE TRACKING WORKSHEET**

- O - OUTGOING
 - H - INTERNAL
 - I - INCOMING
- Date Correspondence Received (YY/MM/DD) 1-1

*Dean
fyji*

Name of Correspondent: Rhett Lawson

MI Mail Report User Codes: (A) _____ (B) _____ (C) _____

Subject: Restitution for Japanese Internment

ROUTE TO:	ACTION	DISPOSITION
Office/Agency (Staff Name)	Action Code	Tracking Date YY/MM/DD Type of Response Code Completion Date YY/MM/DD
<u>CW Holland</u>	ORIGINATOR	<u>88103130</u> PY / /
<u>CWA 24</u>	Referral Note: <u>A/I</u>	<u>88103131</u> PY / /
	Referral Note:	/ / / /
	Referral Note:	/ / / /
	Referral Note:	/ / / /

- ACTION CODES:**
- A - Appropriate Action
 - C - Comment/Recommendation
 - D - Draft Response
 - F - Furnish Fact Sheet to be used as Enclosure
 - I - Info Copy Only/No Action Necessary
 - R - Direct Reply w/Copy
 - S - For Signature
 - X - Interim Reply
- DISPOSITION CODES:**
- A - Answered
 - B - Non-Special Referral
 - C - Completed
 - S - Suspended
- FOR OUTGOING CORRESPONDENCE:**
- Type of Response = Initials of Signer
 - Code = "A"
 - Completion Date = Date of Outgoing

Comments: No further action necessary.
C. Dean McGrath, Jr
8-10-88

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56733604

THE WHITE HOUSE
WASHINGTON

DATE: March 29, 1988

NOTE FOR: JIM MILLER

The President has

seen

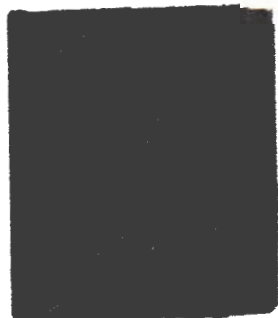
acted upon

commented upon

the attached; and it is forwarded to you for your:

information

action



Rhett Dawson
(x-2702)

cc: Alan Kranowitz
A. B. Culvahouse ✓
Nancy Risque

THE WHITE HOUSE

WASHINGTON

March 29, 1988

MEMORANDUM FOR THE PRESIDENT

FROM: HOWARD H. BAKER, JR.

SUBJECT: RESTITUTION FOR JAPANESE INTERNMENT

I. ANALYSIS

The Senate will soon consider legislation to provide restitution to individuals of Japanese ancestry who were interned during World War II. Similar legislation passed the House on September 17 by a vote of 243-141. The Senate bill currently has 73 cosponsors. The Department of Justice has testified against both bills and OMB issued a Statement of Administration position opposing the House bill before its passage.

While there were reparations paid based on a 1948 Act, they amounted to only \$37 million for 26,500 claims. It is estimated that there remain 60,000 eligible Japanese Americans who were interned. Both bills are simple authorizations, requiring subsequent appropriations, which would have to fit under the budget agreement totals for next year.

II. RECOMMENDATION

I recommend that we withhold any further threat of a veto and explore with Congress the possibility of reducing the potential costs while making it clear we expect any subsequent appropriations to be in accord with our budget agreement.

III. DECISION

RR Approve

_____ Disapprove

_____ Approve as Amended

_____ No Action