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Careney + Remarks: Room 450, OEOB

APPROVED

AUG 10 1988

THE WHITE HOUSE
WASHINGTON

August 9, 1988

MR. PRESIDENT:

Attached for your approval is
H.R. 442 -- To Implement Recom-
mendations of the Commission on
Wartime Relocation and Internment
of Civilians.

Approval of the bill is recommended
by OMB, the offices of Legislative
Affairs, Cabinet Affairs, and NSC.
Counsel's Office, GSA, the National
Archives and Records Administration,
the Departments of the Interior,
Defense and the Treasury all have no
objection.

Rhett Dawson

LAST DAY FOR ACTION: August 17th



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

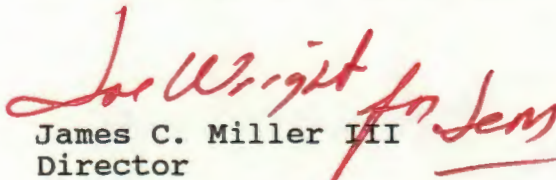
The Department of Justice has advised informally that it has various concerns about H.R. 442, but does not make a recommendation with respect to the enrolled bill. Justice believes that the bill's pardon provision is unnecessary, as the Government has already offered to vacate the conviction of all Japanese-Americans 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

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 <i>concur</i>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	KRANOWITZ <i>concur</i>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
MILLER - OMB	<input type="checkbox"/>	<input type="checkbox"/>	MASENG <i>n/c</i>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
OGLESBY	<input type="checkbox"/>	<input checked="" type="checkbox"/>	RANGE	<input checked="" type="checkbox"/>	<input type="checkbox"/>
BAUER <i>n/c</i>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	RISQUE <i>Approval</i>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
CRIBB <i>n/c</i>	<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 <i>no leg obj</i>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	TUCK	<input type="checkbox"/>	<input type="checkbox"/>
DAWSON	<input type="checkbox"/>	<input checked="" type="checkbox"/>	TUTTLE <i>n/c</i>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
DONATELLI <i>n/c</i>	<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:

THE SCHEDULE OF
PRESIDENT RONALD REAGAN

Wednesday, August 10, 1988

9:00 am (30 min)	<u>Staff Time</u>	Oval Office
9:30 am (30 min)	<u>National Security Briefing</u> (Powell)	Oval Office
10:00 am (15 min)	<u>Senior Staff Time</u>	Oval Office
10:15 am (45 min)	<u>Personal Staff Time</u>	Oval Office
11:00 am (30 min)	<u>Briefing for Palsson Meeting</u> (Powell)	Oval Office
11:30 am (45 min)	<u>Meeting with Prime Minister</u> <u>Palsson of Iceland</u> (Powell)	Oval Office/ Cabinet Room
12:15 pm (75 min)	<u>Luncheon with Prime Minister Palsson</u> (Powell)	Residence
1:30 pm (10 min)	<u>Departure Statements</u> (Powell)	Diplomatic Entrance
1:45 pm (45 min)	<u>Personal Staff Time</u>	Oval Office
2:30 pm (15 min)	<u>Signing Ceremony for Japanese-</u> <u>American Internment Compensation Bill</u> (Kranowitz)	Rose Garden Room 450 of EOB
2:45 pm	<u>Personal Staff Time for</u> <u>Remainder of the Afternoon</u>	Oval Office/ Residence

08/09/88
4:00 pm

THE WHITE HOUSE

WASHINGTON

1988 AUG -9 PM 6:57

August 9, 1988

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

FROM: C. DEAN MCGRATH, JR. *DMC*
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 STAFFING MEMORANDUM

1988 AUG -9 AM 10:41

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 checked="" 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:

No comment

ss for FJD



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

AUG 8 1988

1988 AUG -8 PM 7:02

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Agency Recommendations

Office of Management and Budget	Approval
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Agency Views


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James C. Miller III
Director

Enclosures

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 checked="" 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:

WHITE HOUSE STAFFING MEMORANDUM

DATE: 08/08/88

ACTION/CONCURRENCE/COMMENT DUE BY: 1988 AUG 9. 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 checked="" 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:

No comments Bob Tuttle

NATIONAL SECURITY COUNCIL
WASHINGTON, D.C. 20506

August 1958 AUG 19 8PM 3:53

MEMORANDUM FOR RHETT DAWSON

FROM: PAUL SCHOTT STEVENS *PS*
*A*SUBJECT: H.R. 442 -- To Implement Recommendations of the
Commission on Wartime Relocation and Internment
of Civilians

The NSC staff concurs on H.R. 442 (Tab A).

Attachment

Tab A H.R. 442

T
A
B

A

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"/>
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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 checked="" 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:

WHITE HOUSE STAFFING MEMORANDUM

DATE: 08/08/88 ACTION/CONCURRENCE/COMMENT DUE BY: 1988 AUG Tuesday, 508/09

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

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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"/>
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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 Tuesday, August 9th. Thanks.

RESPONSE:

Pers
H = ~~FDD~~ NO
S = NO
C = NO

LEGIS AFF: Concur in OMB approval recommendation
[Signature]
8/9

Rhett Dawson
Ext. 2702

WHITE HOUSE STAFFING MEMORANDUM 9 PM 6:25

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"/>
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BAUER	<input checked="" type="checkbox"/>	<input type="checkbox"/>	RISQUE	<input checked="" 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 Tuesday, August 9th. Thanks.

RESPONSE:

NR
WOODWARD

approved
WJD

WHITE HOUSE STAFFING MEMORANDUM

1988 AUG -9 PM 6:36
C.O.B. Tuesday, 08/09

DATE: 08/08/88 ACTION/CONCURRENCE/COMMENT DUE BY: _____

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"/>
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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"/>
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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:

No comment
TKC/
10/11/88

WHITE HOUSE STAFFING MEMORANDUM

1988 AUG -9 PM 5

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

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VICE PRESIDENT	<input type="checkbox"/>	<input checked="" type="checkbox"/>	HOBBS	<input type="checkbox"/>	<input type="checkbox"/>
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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:

no comment

WHITE HOUSE STAFFING MEMORANDUM

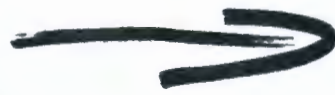
1988 AUG -9 PM 6:41

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

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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 Tuesday, August 9th. Thanks.

RESPONSE:



United States Department of the Interior

OFFICE OF THE SECRETARY
WASHINGTON, D.C. 20240



AUG 9 1988

Honorable James C. Miller III
Director, Office of Management
and Budget
Attention: Assistant Director
for Legislative Reference
Washington, D.C. 20503

Dear Mr. Miller:

This responds to your request for our views on enrolled bill H.R. 442, "To implement the recommendations of the Commission on Wartime Relocation and Internment of Civilians."

Enrolled bill H.R. 442 would make restitution to citizens and residents of Japanese ancestry as well as Aleut residents of the Pribilof Islands and certain Aleutian Islands who were relocated during World War II. The Department of the Interior is primarily concerned with the provisions of this enrolled bill that affect the Aleuts.

Title II of the enrolled bill is cited as the "Aleutian and Pribilof Islands Restitution Act." In brief, this title sets up a mechanism whereby Aleuts displaced in World War II can be identified, located, and compensated for the loss of personal property, real and personal church property, and community property. It establishes a \$5 million fund for the general benefit of Aleuts; \$12,000 to each Aleut relocated during the war (numbering in the hundreds); \$1.4 million for destroyed church property; and up to \$15 million for the loss of Attu Island. Additional appropriations are authorized to the fund for implementation.

Although we will not object to the President's expressed desire to approve this enrolled bill, as stated in his letter to Speaker of the House Jim Wright on August 1, 1988, we must point out a few items of concern.

Aside from the overall cost of the measure, we are particularly concerned about how we will be able to fund the complex and staff-intensive requirements to set up and administer the fund created by the enrolled bill. Moreover, coverage for the cost of locating eligible Aleuts, appraising and determining the value of the property involved, handling conveyances, as necessary, and preparing the required reports is unclear under this title.

From our initial reading of the enrolled bill, we see no direct prohibition on the Secretary using a portion of the appropriations to the fund for the costs of administering the fund. However, there is also no direct authority for the Secretary to use the fund for administrative expenses. If it is determined that we would incur no added expense and that we could use appropriations to the fund in order to administer it, we would not object to those provisions of title II. If it is not so determined, then the Department of the Interior could incur substantial additional expenses in implementing title II.

We further believe the time deadlines in title II are unrealistic. Given the nature of the surveys required, the records searches, and the evaluation of losses, we have little hope of completing this work in the time allotted. Aside from the general difficulties one could fairly anticipate from the complexity of executing these provisions, the terrain, climate, and other elements peculiar to the State of Alaska could impede our ability to complete the assigned duties within the required timeframe. A full effort to meet these deadlines is also likely to add to the cost of the enrolled bill.

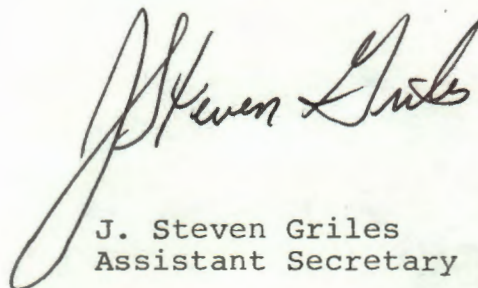
We must also note that the mechanism for administering the various elements of the fund creates layers of responsibility among a number of individuals and organizations in such a manner that it may actually lead to confusion in implementation. We are concerned about the possibility of conflicts in such a situation among competing interests, and about the proper role of the Secretary. We defer to the Department of Justice for an analysis of any Constitutional issues this may raise, especially regarding the appointment of officials.

The enrolled bill no longer contains certain provisions regarding the cleanup and return of Attu Island that were in conflict with Administration policy and other laws related to both historic sites and wildlife refuges. Reconveyance of only a small portion of the island is contemplated under this final version of the bill, and that is discretionary.

Under the enrolled bill, however, compensation for lost acreage on Attu Island (now within the National Wildlife Refuge System) could amount to \$15 million. As we have previously stated to OMB, we believe the Aleuts have already been compensated for this loss of real property under earlier statutes governing the selection of replacement lands, such as the Alaska Native Claims Settlement Act of 1971.

Further analysis of the provisions of this enrolled bill will doubtless raise other issues that we have not had time to analyze. In summary, we have many concerns that have yet to be addressed regarding title II of the enrolled bill. We have no comment on either title I or title III, and defer to the Department of Justice on the matters discussed regarding title II.

Sincerely,

A handwritten signature in cursive script, reading "J. Steven Griles". The signature is written in dark ink and is positioned above the typed name and title.

J. Steven Griles
Assistant Secretary

CIVIL LIBERTIES ACT OF 1987

AUGUST 6, 1987.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. RODINO, from the Committee on the Judiciary,
submitted the following

R E P O R T

together with

A D D I T I O N A L V I E W S

[To accompany H.R. 442]

[Including cost estimate of the Congressional Budget Office]

The Committee on the Judiciary, to whom was referred the bill (H.R. 442) to implement the recommendations of the Commission on Wartime Relocation and Internment of Civilians, having considered the same, reports favorably thereon with amendments and recommends that the bill as amended do pass.

The amendments are as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Civil Liberties Act of 1987".

SEC. 2. 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) discourage the occurrence of similar injustices and violations of civil liberties in the future; and

(6) make more credible and sincere any declaration of concern by the United States over violations of human rights committed by other nations.

SEC. 3. STATEMENT OF THE CONGRESS.

The Congress recognizes that, as described by the Commission on Wartime Relocation 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 were motivated in part by racial prejudice and wartime hysteria. 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.

SEC. 4. 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 who, while a United States citizen or permanent resident alien of Japanese ancestry, was 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 made by or on behalf of the United States or its agents, representatives, officers, or employees respecting the exclusion, relocation, or detention of individuals solely on the basis of Japanese ancestry.

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 findings contained in this Act, the President is requested to offer pardons to any individuals recommended by the Attorney General under subsection (b).

SEC. 5. 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 historical findings of the Commission and the findings contained in this Act, 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 new authority to grant restitution described in that subsection, or establish new eligibility to apply for such restitution.

SEC. 6. TRUST FUND.

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

(b) RESPONSIBILITIES OF THE SECRETARY OF THE TREASURY.—

(1) INVESTMENT.—The Secretary of the Treasury shall invest such portion of the Fund as is not, in the judgment of the Secretary, required to meet current withdrawals. Such investments may be made only in interest-bearing obligations of the United States. For such purpose, such obligations may be acquired—

(A) on original issue at the issue price, or

(B) by purchase of outstanding obligations at the market price.

(2) SALE OF OBLIGATIONS.—Any obligation acquired by the Fund may be sold by the Secretary of the Treasury at the market price.

(3) CREDITS TO FUND.—The interest on, and the proceeds from the sale or redemption of, any obligations held in the Fund shall be credited to and form a part of the Fund.

(c) USES OF THE FUND.—Amounts in the Fund shall be available only for disbursement by the Attorney General under section 7 and by the Board under section 8.

(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 is authorized to be appropriated to the Fund \$1,250,000,000. Any amounts appropriated pursuant to this section are authorized to remain available until expended, except that any funds appropriated for payments by the Attorney General under section 7 shall be used for such payments during the fiscal year in which the funds are first made available.

SEC. 7. RESTITUTION.

(a) LOCATION AND PAYMENT OF ELIGIBLE INDIVIDUALS.—

(1) IN GENERAL.—The Attorney General shall pay out of the Fund to each eligible individual the sum of \$20,000, unless such individual refuses to accept the payment. The Attorney General shall, within 9 months after the date of the enactment of this Act, identify and locate, without requiring any application for payment and using records already in the possession of the United States Government, each eligible individual. Failure to be identified and located within such 9-month period shall not preclude an eligible individual from receiving payment under this section. 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. In any case, the Attorney General shall notify all eligible individuals of their eligibility for payment under this section.

(2) EFFECT OF REFUSAL TO ACCEPT PAYMENT.—If an eligible individual refuses 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.

(3) PAYMENT IN FULL SETTLEMENT OF CLAIMS AGAINST THE UNITED STATES.—The payment to an eligible individual under this section shall be in full satisfaction of any claim of such individual against the United States arising out of acts done to that individual that are described in section 10(2)(B). This paragraph shall apply to any eligible individual who does not refuse to accept payment under this section within 6 months after receiving the notification from the Attorney General referred to in the last sentence of paragraph (1).

(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 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) NOTIFICATION AND DOCUMENTATION BY ELIGIBLE INDIVIDUALS.—Any eligible individual who, by September 30, 1989, has not received payment under this section from the Attorney General or has not otherwise been notified by the Attorney General for purposes of payment under this section, 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.

(e) 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.

(f) TERMINATION OF DUTIES OF ATTORNEY GENERAL.—The duties of the Attorney General under this section shall cease with the termination of the Fund.

(g) 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. 8. BOARD OF DIRECTORS OF THE FUND.

(a) ESTABLISHMENT.—There is hereby 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 the hearings and findings 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.

(8) 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 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 PERSONNEL.—

(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 is authorized to provide to the Board on a reimbursable basis such administrative support services as the Board may reasonably 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. 9. DOCUMENTS RELATING TO THE INTERNMENT.

(a) DEPOSIT OF DOCUMENTS IN NATIONAL ARCHIVES.—All documents, personal testimony, and other material collected by the Commission during its inquiry shall be delivered by the custodian of such material to the Archivist of the United States who shall deposit such material in the National Archives of the United States. The Archivist shall make such material available to the public for research purposes.

(b) AVAILABILITY TO THE PUBLIC.—The Clerk of the House of Representatives and the Secretary of the Senate shall, without regard to time limits otherwise applicable to the release of congressional documents, direct the Archivist of the United States to make available to the public for research purposes, all congressional documents not classified for national security purposes which are transferred to the Clerk of the House and the Secretary of the Senate relating to the evacuation, relocation, and internment of individuals during the evacuation, relocation, and internment period.

SEC. 10. DEFINITIONS.

For the purposes of this Act—

(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) 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 made by or on behalf of the United States of its agents, representatives, officers, or employees respecting the exclusion, relocation, or detention of individuals solely on the basis of Japanese ancestry;

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 6;

(5) the term "Board" means the Civil Liberties Public Education Fund Board of Directors established in section 8; 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.

SEC. 11. COMPLIANCE WITH BUDGET ACT.

No authority under this Act to enter into contracts or to make payment shall be effective except to the extent or in such amounts as are provided in advance in appropriations Acts. Any provision of this Act which, directly or indirectly, authorizes the enactment of new budget authority shall be effective only for fiscal year 1989 and thereafter.

Amend the title so as to read:

A bill to implement recommendations of the Commission on Wartime Relocation and Internment of Civilians.

PURPOSE OF H.R. 442 AS RECOMMENDED BY THE COMMITTEE

The purpose of H.R. 442 is to implement recommendations of the Commission on Wartime Relocation and Internment of Civilians by providing remedies for those of Japanese ancestry who were relocated by the United States Government during World War II.

BACKGROUND

THE COMMISSION ON WARTIME RELOCATION AND INTERNMENT OF CIVILIANS

The Commission on Wartime Relocation and Internment of Civilians was established in 1980 (Public Law 96-317). The purposes of the Commission were to:

1. Review the facts and circumstances surrounding Executive Order Numbered 9066, issued February 19, 1942, and the impact of such Executive Order on American citizens and permanent resident aliens of Japanese ancestry;
2. Review directives of United States military forces requiring the relocation and, in some cases, detention in internment camps of Aleut citizens and permanent resident aliens of the Aleutian and Pribilof Islands; and
3. Recommend appropriate remedies.

The Commission held 20 days of hearings and in December, 1982, published its report, "Personal Justice Denied."

As to those of Japanese ancestry, the Commission concluded in its report that Executive Order 9066 and the various military orders issued under it, including the evacuation from the West Coast of all persons of Japanese ancestry, were not justified by military necessity. Rather, the Commission concluded that:

The broad historical causes that shaped these decisions were race prejudice, war hysteria and a failure of political leadership. "Personal Justice Denied, Part 2: Recommendations," June 1984, p. 5.

On the basis of these conclusions, the Commission made recommendations for remedial action. These recommendations constitute the basis for the bill currently before the House (H.R. 442). The implementation of remedies for the claims of the Aleuts is contained in a separate bill introduced by Representative Don Young, H.R. 1631. Therefore the claims of the Aleuts are not addressed in this report.

EVACUATION FROM THE WEST COAST OF UNITED STATES CITIZENS AND RESIDENT ALIENS OF JAPANESE ANCESTRY

On February 19, 1942, President Franklin D. Roosevelt issued Executive Order 9066. This order authorized the Secretary of War and his military commanders to designate military areas "from which any or all persons may be excluded". On March 21, 1942, Public Law 77-503 was enacted so that compliance with any directives issued under the Executive Order would be enforced through criminal sanctions.

Beginning in late March, 1942, Lt. General John L. DeWitt, commanding general of the Western Defense Command, acted under

the Executive Order to issue a series of "Civilian Exclusion Orders". These orders covered such matters as curfews, restrictions on access to sensitive areas, and other limits on all enemy aliens (those of Japanese, Italian, and German citizenship). Ultimately, an order issued under this authority required the exclusion from the West Coast of all individuals of Japanese ancestry. This order covered approximately 43,000 legal and illegal resident aliens and approximately 77,000 American citizens. The Government stated that the basis of this exclusion was "military security" and that the threatening war situation precluded individual hearings to determine loyalty prior to evacuation.¹ Those of Japanese descent who resided outside the West Coast area were not subject to these orders.

The original orders dealing with evacuation first recommended voluntary relocation. About 10,000 individuals did more voluntarily to new homes and jobs away from the West Coast, not only because of the Government's encouragement, but also because they had lost jobs, homes, or businesses because of the general population's reaction to the war with Japan. However, this voluntary program was terminated, primarily because some states in the interior refused to allow entry to the evacuees and because the evacuees were unable to find jobs and housing in the interior. An additional consideration was that many of the resident aliens subject to the orders were adults, while a large portion of the citizens of Japanese ancestry were the American-born minor children of these resident aliens. Thus, voluntary evacuation of only those of Japanese descent who were aliens posed many difficult practical problems, including the prospect of separating families if, as allowed under international law and the United States Code, only those of enemy nationality were evacuated.

Because of these factors, the evacuation order for all persons of Japanese ancestry, both alien and citizen, was finally made mandatory. As a result, the vast majority of those evacuated were moved from the West Coast by the Army, first to "Assembly Centers" and then to Wartime Relocation Authority Camps.² Although the Government's relocation orders informed covered individuals that their real estate and businesses would be managed for them by the Government and that their personal property would be stored and sent to them later, many evacuees sold or leased their property at exceedingly low prices or otherwise incurred substantial losses due to the evacuation.

The majority of the evacuated individuals lived in the relocation camps for the remainder of the war, although approximately 35,000 left the camps after a loyalty review to join the service, to attend college outside the West Coast area, or to accept employment outside the West Coast area. Of the nearly 120,000 evacuees, approximately five thousand refused to declare loyalty to the United States and several thousand requested repatriation to Japan (see

¹ Pearl Harbor had been attacked by Japan on December 7, 1941. This attack nearly destroyed the Pacific Fleet, which provided almost the only military defense of the entire West Coast.

² In addition to the relocation camps, from which individuals were released once they had completed a loyalty review and found a job and place to live, there were "internment camps" for those suspected of disloyalty. These two types of camps had wholly separate purposes, as indicated by their names.

Korematsu v. United States, 323 U.S. 214, 219 (1944)). Those of Japanese ancestry who lived outside the West Coast area were never evacuated.

The exclusion from the West Coast was formally ended in December, 1944. The last of the camps was closed in January, 1946.

During the period when Executive Order 9066 was operative, there were several Supreme Court challenges to the legality of orders issued under this authority:

1. *Hirabayashi v. U.S.*, 320 U.S. 81 (1943) and *Yasui v. U.S.*, 320 U.S. 115 (1943). The Supreme Court held that it was within the constitutional authority of Congress and the Executive, acting together, to prescribe a curfew as an emergency measure to meet the threat of sabotage and espionage, even if the curfew applied only to persons of Japanese ancestry.

2. *Korematsu v. U.S.*, 323 U.S. 214 (1944). The Supreme Court upheld the exclusion of persons of Japanese ancestry from the West Coast on the basis of military security as a constitutional exercise of executive authority to prevent sabotage and espionage.

3. *Ex parte Endo*, 323 U.S. 283 (1944). The Supreme Court ruled that the Wartime Relocation Authority had no authority under any executive order or statute to detain (as opposed to "exclude") concededly loyal and law-abiding citizens. The Court thus did not reach the issue of the constitutionality of the relocation program, nor did it address whether the Government had authority under the Constitution to detain those of enemy nationality (approximately one third of those sent to the relocation camps).

Over the more than forty years since World War II ended, the United States Government has taken a number of steps to compensate those of Japanese ancestry for losses they suffered due to the evacuation.

In 1948, the Evacuation Claims Act was enacted. The Act established a procedure through which evacuees could file claims against the United States for damage or loss of real or personal property as a consequence of the relocation. (This Act was amended in 1951, 1956, and 1962.) The total amount awarded under this program was approximately \$38 million. The Commission estimated that, as a result of the exclusion and detention, in 1945 dollars the ethnic Japanese lost between \$108 and \$164 million in income and between \$41 and \$206 million in property for which no compensation was made. (The Commission believed these losses to fall between \$810 million and \$2 billion in 1983 dollars).

In 1972, the Social Security Act was amended so that those of Japanese descent over the age of 18 who spent time in relocation camps would be deemed to have earned and contributed to the Social Security system for work they performed in those camps.

In 1976, President Gerald Ford formally rescinded Executive Order 9066, stating that the wartime measures taken under this order as to those of Japanese ancestry were "a setback to fundamental principles" and involved "national mistakes". Proclamation No. 4417, 41 Fed. Reg. 7741 (1976).

In 1978, federal civil service retirement provisions were amended to allow those who had been relocated civil service retirement credit for the time spent in detention after the age of 18.

In addition to the foregoing federal actions, compensation programs have been established by two states and two local governments for former employees who were dismissed or who resigned because of their Japanese ancestry, including: California; Washington; San Francisco, California; and Los Angeles, California.

Since the Commission's Report was issued in 1983, four proceedings have been brought in federal courts which relate to the issues presented by H.R. 442.

In *Korematsu v. United States*, 584 Fed. Supp. 1406 (N.D. Calif., April 19, 1984), a federal district court issued a writ of error *coram nobis* which set aside the 1942 conviction of Fred Korematsu for violating the exclusion order. The writ was granted on the basis that Mr. Korematsu had been convicted because the Government fraudulently concealed evidence relating to whether military necessity required the exclusion of those of Japanese descent from the West Coast.

In *Yasui v. United States*, 772 F. 2d 1496 (9th Circuit, 1985), the court granted the Government's motion to dismiss the 1942 indictment of Minoru Yasui, thus vacating the 1942 conviction of a curfew violation without reaching the constitutional question. Mr. Yasui, who appealed this decision (as did the Government), died in November 1986. Thus, on March 23, 1987, the Ninth Circuit dismissed the appeals in this case on grounds of mootness.

In *Hirabayashi v. United States*, 627 F. Supp. 1445 (W.D. Wash., 1968), the District Court granted a writ of error *coram nobis* to Gordon Hirabayashi for violating the exclusion order. The grounds for this writ were the same as those stated in the 1984 *Korematsu* case. (Mr. Hirabayashi had never been convicted of a violation of the exclusion order, although he was charged with such a violation. Rather, he was convicted of a curfew violation.) the Ninth Circuit is considering this decision on appeal. Oral arguments were heard on March 2, 1987.

In 1983, a class action was brought against the United States on behalf of those evacuated under Executive Order 9066, *Hohri v. United States*. The plaintiffs alleged 22 causes of action, including Fifth Amendment Taking Claims, tort claims, allegations of breach of contract and fiduciary duties, and Tucker Act violations. The District Court granted the motion by the United States to dismiss all the causes of action, 586 F. Supp. 796 (D.C. Circuit, 1984). The plaintiff appealed this decision.

On January 21, 1986, the United States Court of Appeals for the District of Columbia Circuit ruled in *Hohri* that: (1) the United States Court of Appeals has jurisdiction over the claims; and (2) under the Takings Clause of the Constitution and under the Tucker Act, individuals of Japanese descent who lost property because of their exclusion from the West Coast during World War II have a cause of action against the United States for these losses, 782 F. 2d 227 (D.C. Circuit, 1986). The court limited this favorable ruling to those who did not receive awards for property losses under the Evacuation Claims Act of 1948, because that Act was the exclusive remedy for anyone who had received an award under its provisions. The Court then ruled against the other causes of action and remanded the case to the lower court for a determination of whether the Plaintiffs can establish their claims under the Takings

Clause.³ Both plaintiffs and the United States appealed to the Supreme Court. The Court agreed to consider only that portion of the case in which the plaintiffs had been successful, i.e. the jurisdictional dispute and the Tucker Act claims.

On June 1, 1987, the United States Supreme Court remanded the *Hohri* case to the U.S. Court of Appeals for the Federal Circuit. No substantive decision on the merits of claims for damages was made by the Supreme Court. Rather, the court stated that the U.S. Court of Appeals for the District of Columbia, which had originally decided the case, did not have jurisdiction over a mixed claim involving a Tucker Act claim and a Federal Tort Claims Act claim. Therefore, the Court ruled that the United States Court of Appeals for the Federal Circuit has jurisdiction over these claims because it has exclusive appellate jurisdiction over Tucker Act claims.

PRIOR CONSIDERATION

The Subcommittee has held extensive hearings on bills similar to H.R. 442 in the 98th Congress (H.R. 4110) on June 20, 21, 27, and September 12, 1984, and in the 99th Congress (H.R. 442) on April 28 and July 23, 1986.

COMMITTEE ACTION

The Subcommittee on Administrative Law and Governmental Relations held a hearing on H.R. 442 on April 29, 1987, to examine the remedies contained in the bill for individuals who were evacuated from their homes by the United States Government order during World War II. On May 13, 1987, the Subcommittee favorably recommended H.R. 442 with a single amendment in the nature of a substitute to the full Committee.

On June 17, 1987, the full Committee considered H.R. 442 as recommended by the Subcommittee, and, after further amendments, reported the bill favorably to the House with a single amendment in the nature of a substitute by vote of 28-6.

The amendment in the nature of a substitute that is recommended by the Committee includes the following modifications to H.R. 442 as it was introduced:

(1) The amendment deletes the separate "Findings" portion from the bill; removes some of the findings of H.R. 442; then incorporates the rest of the findings into the apology section of the amended bill (Section 3).

(2) The amendment reduces the total authorization of funds by \$250 million. The total authorization as amended is for \$1.25 billion, which provides the Educational Trust Fund with \$50 million rather than \$300 million. The amendment also provides that no funds authorized by the bill will be appropriated until FY 89. This insures that such funds will be considered in the normal budget cycle and no waiver will be sought in the current budget process.

(3) The amendment clarifies the provision relating to the payments of individual restitution of \$20,000 to each person

subject to the relocation process. Restitution is available only to those individuals who are living on the date of enactment and will not be available to any individual who relocated to an enemy country during World War II. The amendment also clarifies that if an eligible individual refuses the payment of restitution under the bill, that amount will remain in the fund for its use, and no future payment may be made to an individual after refusal. Finally, this amendment provides that acceptance of restitution under the bill is in full settlement of any claims arising from the relocation. This means that anyone who takes restitution under this bill would not be allowed to receive any award under pending or new litigation based on the relocation.

(4) The amendment authorizes any eligible individual to notify the Department of Justice of their eligibility if that individual has not received payment by September 30, 1989.

(5) The amendment modifies the purposes of the Civil Liberties Public Education Fund. The amendment limits these authorities to publishing the hearings of the Commission and to sponsoring research and public educational activities about the internment period so that its causes and circumstances may be understood.

(6) The amendment removes the portion of H.R. 442 which makes restitution to the Aleuts. Separate legislation, H.R. 1631, would provide for restitution to the Aleuts and has been favorably recommended by the Subcommittee on Administrative Law and Governmental Relations. This bill is currently pending before the Committee.

The Committee concluded that it is difficult to provide adequate financial compensation to the individuals of Japanese descent who were relocated from the West Coast during World War II for the fundamental violations of their civil liberties and constitutional rights they suffered, but that the restitution payments provided in H.R. 442 represent a strong affirmation by the Congress that a mistake was made. In recommending restitution payments to eligible individuals, the Committee, which regularly considers the claims of individuals who have been wronged by the Federal Government, followed precedents in awarding damages to those who have been convicted or detained without due process of law. The Committee concluded that restitution payments demonstrate a tangible commitment by the Government of the United States that such activities should not happen again. Although a formal apology is important and the education fund is needed, these provisions alone, without compensation, will not ensure or serve as a disincentive to us as a nation to prevent future denials of fundamental civil liberties.

The Committee recommends that the House act favorably on H.R. 442, as amended, to remedy the grave injustice done by the U.S. government during the internment period to U.S. citizens and to permanent resident aliens of Japanese ancestry.

SUMMARY OF H.R. 442 AS RECOMMENDED BY THE COMMITTEE

H.R. 442 as introduced contained provision covering the claims of both those of Japanese descent and the Aleuts. Total estimated cost

³ The United States petition for rehearing *en banc* was denied, 793 F. 2d 304 (D.C. Circuit, 1986).

of the Japanese-ancestry portion of H.R. 442 as introduced was \$1.5 billion plus administrative costs. The amendment in the nature of a substitute recommended by the Committee addresses only the claims of those of Japanese ancestry at a total estimated cost of \$1.25 billion plus administrative costs.

In summary, H.R. 442 as amended provides for:

1. An apology by Congress on behalf of the Nation to those of Japanese ancestry who were subject to evacuation, relocation, and internment during World War II.

2. A review by the Attorney General of all cases where individuals of Japanese ancestry were convicted of violations of the laws of the United States where the conviction resulted from the individual's refusal to accept discriminatory treatment on the basis of their Japanese ancestry. The President is requested to grant pardons in appropriate cases.

3. A review by all Departments and agencies of the United States of applications of individuals for the restitution of positions, status, or entitlements lost due to discriminatory acts by the United States during World War II that were based on their Japanese ancestry.

4. The establishment of a trust fund of \$1.25 billion to be used for:

a. Payments of \$20,000 to each individual of Japanese ancestry deprived of liberty under Executive Order 9066, Public Law 77-503, or any other action by or on behalf of the United States between December 7, 1941 and June 30, 1946 (approximately \$1.2 billion); and

b. Educational and humanitarian uses to study the causes and effects of the evacuation and for the general welfare of the Ethnic Japanese community in the United States (approximately \$50 million).

SECTION-BY-SECTION ANALYSIS OF THE AMENDMENT IN THE NATURE OF A SUBSTITUTE TO H.R. 442

Section 1. Short Title

Section 1 provides that the short title of this bill will be the "Civil Liberties Act of 1987".

Section 2. Purposes

Section 2 states the purposes for making restitution to U.S. citizens and permanent resident aliens of Japanese ancestry who were evacuated, relocated, and interned during World War II. The purposes include: to acknowledge that a fundamental injustice was done; to apologize on behalf of the people of the United States for the internment; to provide a fund for public education to prevent the reoccurrence of similar events; to make restitution to those individuals interned; to discourage similar injustices in the future; and to make credible the United States concern over violations of human rights by other nations.

Section 3. Statement of the Congress

Section 3 provides a formal apology from the Congress on behalf of the nation to the individuals affected by evacuation, relocation,

and internment for fundamental violations of basic civil liberties and constitutional rights. The Congress states that the actions taken by the Government were carried out without adequate security reasons, and were motivated in part by racial prejudice and wartime hysteria. The Congress states that individuals of Japanese ancestry suffered enormous damages both material and intangible, all of which resulted in significant human suffering for which appropriate compensation has not been made.

Section 4. Remedies with Respect to Criminal Convictions

Section 4 provides for a review by the Attorney General of criminal convictions of all U.S. citizens or permanent resident aliens of Japanese ancestry who were convicted of violating wartime restrictions imposed by Executive Order 9066. The section requests the Attorney General to make recommendations to the President for consideration of pardons in those convictions the Attorney General considers appropriate. Also the section requests that the President offer pardons to the individuals recommended by the Attorney General.

Section 5. Consideration of Commission Findings by Departments and Agencies

Section 5 requires agency review with liberality applications of restitution of any position, status or entitlement lost in part because of the discriminatory act of the U.S. Government during the internment period. The section also provides that each agency review the applications given full consideration to the historical findings of the Commission and findings in the Act.

Section 6. Trust Fund

Section 6 authorizes the establishment of a Civil Liberties Public Education Fund in the amount of \$1.25 billion to be available for reimbursement pursuant to sections 204 and 205. The section provides that the Secretary of the Treasury administer the fund for a ten year period.

Section 7. Restitution

Section 7 provides for the payment of \$20,000 to every individual who was a U.S. citizen or permanent resident alien and who was deprived of liberty because of the Government's wartime relocation program. The section authorizes the Attorney General to identify and make payments to eligible individuals. Eligible individuals who have not received payment by September 30, 1989, are authorized to notify the Attorney General of their eligibility and to provide documentation to support their claim. Refusal by eligible individuals of restitution payments is final and such individuals may not request payment at a later date. Payment to eligible individuals is in full settlement of any claims arising out of acts against the individual described in the Act. Eligible individuals have six months after notification from the Attorney General to accept payment under the Act. Payments to individuals will not be income for purposes of Internal Revenue laws of the United States or for determinations of eligibility for benefits from federal assistance programs because the payments are damages for human suffering.

Section 8. Board of Directors of the Fund.

Section 8 establishes a Board of Directors for the fund provided for in section 6. The Board is authorized to disburse funds to sponsor research and public educational activities and to publish the findings and hearings of the Commission so that the events surrounding the evacuation and relocation, and the internment period will be remembered, and the causes and circumstances of this and similar events will be illuminated and understood. The President shall appoint the nine members of the Board, who shall serve without pay. The Board shall elect a Chair and appoint a Director. The Board may also appoint and pay additional staff. Compensation for any employee of the Board may not exceed the rate equivalent to the minimum rate of basic pay for a GS-18. The Board must make annual reports to the President and each House of the Congress.

Section 9. Documents Relating to the Internment

Section 9(a) provides that all documents collected by the Commission on Wartime Relocation and Internment of Civilians will be deposited with the National Archives and that the Archivist of the United States shall make such materials available to the public for research purposes.

Section 9(b) provides that congressional documents relating to the internment period not classified for national security purposes be placed in the National Archives and made available to the public for research purposes.

Section 10. Definitions

Section 10 provides six definitions of terms used in the Act. The "evacuation, relocation, and internment period" is defined as beginning on December 7, 1941, and ending on June 30, 1946. An "eligible individual" is defined as a person living on the date of the enactment of the Act who was deprived of liberty or property as a result of the Executive Order Number 9066, February 19, 1942, or any other Executive Order, Presidential Proclamation, law of the United States, directive of the Armed Forces, or action of the US. Government solely on the basis of Japanese ancestry regarding exclusion, relocation, or detention. This definition excludes payments to heirs, and excludes payments to heirs, and excludes payments to individuals who relocated to a country during World War II (December 7, 1941—September 2, 1945), with which we were at war. A "permanent resident alien" is an alien lawfully admitted to the U.S. for permanent residence. "Fund" means the Civil Liberties Public Education Fund established in section 6. The "Board" means the Civil Liberties Public Education Fund Board of Directors established in section 8. "Commission" means the Commission on Wartime Relocation and Internment of Civilians Act.

Section 11. Compliance with Budget Act

Section 11 provides that no appropriation authorized by the Act will be sought outside of the normal budget process and cycle. The earliest budget authority would be effective for FY 1989 and thereafter.

STATEMENTS UNDER RULE XI, CLAUSE 2(1)(2)(B), CLAUSE 2(1)(3)(A), CLAUSE 2(1)(3)(B), CLAUSE 2(1)(3)(D), AND CLAUSE 2(1)(4); RULE XIII, CLAUSE (7)(a)(1); AND RULE XI, CLAUSE 2(1)(3)(C); AND RULE XIII, CLAUSE (3)

COMMITTEE VOTE

(Rule XI 2(1)(2)(B))

On July 17, 1987, a quorum being present, the full Committee on the Judiciary approved the bill, H.R. 442, as amended, by a roll call vote of 28-6.

OVERSIGHT STATEMENT

(Rule XI 2(1)(3)(A))

The Subcommittee on Administrative Law and Governmental Relations of this Committee exercises the Committee's oversight responsibility with reference to claims against the United States in accordance with Rule VI(b) of the Rules of the Committee. The favorable consideration of this bill was recommended by that Subcommittee and the Committee has determined that the legislation should be enacted as set forth in this bill.

BUDGET STATEMENT

(Rule XI 2(1)(3)(B))

H.R. 442 does not directly provide budget authority nor does it involve new or increased tax expenditures contemplated by Clause 2(1)(3)(B) of Rule XI.

OVERSIGHT FINDINGS AND RECOMMENDATIONS OF THE COMMITTEE ON GOVERNMENT OPERATIONS

(Rule XI 2(1)(3)(D))

No findings or recommendations of the Committee on Government Operations were received as referred to in subdivision (d) of clause 2(1)(3) of House Rule XI.

INFLATIONARY IMPACT

(Rule XI 2(1)(4))

In compliance with clause 2(1)(4) of House Rule XI, it is stated that this legislation will have no inflationary impact on prices and costs on the operation of the national economy.

COST

(Rule XIII (7)(a)(1))

The costs are those outlined in the cost estimate of the Congressional Budget Office included in this report.

COST ESTIMATE OF THE CONGRESSIONAL BUDGET OFFICE

(Rule XI 2(1)(3)(c))

The cost estimate of the Congressional Budget Office, prepared pursuant to section 403 of the Congressional Budget Act of 1974 and received by the Committee on May 21, 1987, is as follows:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, July 14, 1987.

Hon. PETER W. RODINO, Jr.,
Chairman, Committee on the Judiciary,
U.S. House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the attached cost estimate for H.R. 442, the Civil Liberties Act of 1987.

If you wish further details on this estimate, we will be pleased to provide them.

With best wishes,
Sincerely,

EDWARD M. GRAMLICH,
Acting Director.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

1. Bill number: H.R. 442.
2. Bill title: Civil Liberties Act of 1987.
3. Bill status: As ordered reported by the House Committee on the Judiciary, June 17, 1987.
4. Bill purpose: H.R. 442 would authorize a tax-free \$20,000 restitution payment to each person of Japanese descent relocated or interned during World War II. To cover the restitution payment, the bill authorizes the appropriation of \$1.25 billion to the Civil Liberties Public Education Fund, which could be appropriated over 10 years beginning in fiscal year 1989. Anyone accepting the restitution payment would be required to extinguish any claim against the federal government related to wartime relocation and internment. The bill would establish a board of directors to oversee the fund, but the Attorney General would be responsible for identifying, locating, and making the payments to eligible individuals. The bill would also require the Attorney General to review all convictions under the laws enacted during World War II to detain or restrict people of Japanese descent, and for all federal agencies to review applications from people interned to restore positions or benefits lost because of the wartime actions.
5. Estimated cost to the Federal Government:

[By fiscal year, in millions of dollars]

	1988	1989	1990	1991	1992
Authorization level.....		1,250			
Estimated outlays.....		950	250	10	10

The costs of this bill fall within budget function 750. This table does not include the costs to the Attorney General of administering the fund, which may not be paid from the fund. CBO estimates these costs would be roughly \$10 million to \$15 million in 1989 and \$1 million to \$2 million in 1990, assuming appropriation of the necessary funds.

Basis of estimate

This estimate assumes that the full amount authorized will be appropriated prior to the start of fiscal year 1989. Outlays are difficult to predict, but we expect roughly three-fourths of them would occur in 1989, assuming the bill is enacted before January 1, 1988. The bill specifies that no payments could be made in advance of appropriations.

According to the Japanese-American Citizens League, approximately 60,000 people are eligible for the payment, which would result in outlays of \$1.2 billion over the life of the restitution program. Any money remaining in the fund could be spent by the board of directors on programs that benefit Japanese-American communities. The board of directors would probably draw down the remaining balances slowly, by around \$10 million per year.

H.R. 442 would provide nine months for the Attorney General to identify and locate the people eligible for the restitution payment. The bill would not allow the Attorney General to deduct any administrative costs from the fund. In a letter dated April 25, 1986 to the Committee on the Judiciary, the Assistant Attorney General wrote that this task "could require the Department to commit a considerable amount of manpower and resources to the search for eligible recipients."

The resources that would be required are difficult to predict. We expect that most people eligible for the payment would voluntarily notify the DOJ, or would respond to a public information campaign. Nevertheless, the DOJ would have to devote some administrative resources to this effort. CBO estimates that the DOJ could incur costs of \$10 million to \$15 million during the first year after enactment of the bill, and possibly \$1 million to \$2 million the second year, until the restitution program is complete. This estimate assumes that costs would be comparable to similar efforts by the Department of Justice, such as the alien legalization program run by the INS.

The provision requiring people accepting the restitution payment to extinguish any claims against the federal government could offset the other costs in the bill. For example, a class-action suit on behalf of interned Japanese-Americans, United States against Hohri, is currently in federal appeals court. In that case, the plaintiffs are seeking a \$10,000 payment for each person interned during World War II. Because of the uncertainty as to the results of these proceedings, however, we cannot estimate what savings, if any, would result from this provision. Additionally, CBO does not expect that the provisions requiring federal agencies to review applications and convictions would not result in a significant cost to the federal government, based on information provided by the DOJ.

6. Estimated cost to State and local governments: None.

7. Estimate comparison: None.

8. Previous CBO estimate: None.
9. Estimate prepared by: Michael Sieverts.
10. Estimate approved by: C.G. Nuckols (for James L. Blum, Assistant Director for Budget Analysis).

DEPARTMENTAL VIEWS

The Department of Justice opposes enactment of H.R. 442. The statement of Assistant Attorney General Richard K. Willard sets forth the position of the Department on that part of H.R. 442 regarding individuals of Japanese ancestry follows:

BACKGROUND

The wartime relocation and internment of Japanese-Americans were undertaken pursuant to decisions made at the highest level of our government during World War II as part of our nation's defense effort. These decisions were made at a time when the very survival of the Republic was threatened. With the passage of time, these decisions have been examined and questioned. In our view, the Commission's extensive effort to study the wartime relocation and internment program, despite its apparent thoroughness, proves the futility of endeavoring accurately and completely to comprehend the perception of our national leaders under the extreme wartime conditions of the period. These issues will continue to be a matter of historical and scholarly debate.

The United States government has officially recognized that much unjustified personal hardship came about as a result of the internment program. The internees were among the millions of innocent victims of World War II, confined in the wake of the unprovoked attack on Pearl Harbor and very real fear of a Japanese invasion of the West Coast. Regardless of one's opinion as to the *bona fides* of the government officials who approved and implemented the relocation and internment program, we all can agree that Japanese-Americans suffered much deprivation and hardship. They were expected to make personal, professional, and social sacrifices of a nature not expected of other United States citizens. As it is impossible to bring back to life the many Americans who died in the American war effort, including those heroic Americans of Japanese descent who fought in the U.S. Armed Forces, so it is impossible to restore to all those Americans the freedom that was taken as a result of war. However, previous Congresses, Presidents and the Attorney General have taken steps to acknowledge and compensate for the injuries suffered by Japanese-Americans during this period.

After the conclusion of World War II, Congress acted to authorize a program of compensation for the financial losses entailed by evacuations from the West Coast. The American-Japanese Claims Act, enacted in 1948, authorized compensation for "any claim" for damages to or loss of real or personal property as "a reasonable natural consequence of the evacuation or exclusion of" persons of Japanese ancestry as a result of governmental action during World War II. 50 U.S.C. App. § 1981-1987. This Act was amended by subsequent Congresses to liberalize its provisions for compensation. Under the Act as amended, the Justice Department received claims seeking approximately \$147 million. Ultimately, 26,568 settlements

were achieved, many of which settled claims presented by family groups rather than individual claimants. Thus, it is safe to conclude that of the 120,000 evacuees, most submitted claims under the American-Japanese Claims Act and received compensation. A total of over \$37 million was paid in compensation pursuant to this Act.

In early 1976, President Ford formally revoked Executive Order 9066, issued by President Roosevelt in 1942 to permit exclusions from the West Coast. Also in 1976, Congress repealed Public Law 77-503, which was enacted in 1942 to ratify Executive Order 9066. In repealing the Executive Order, President Ford stated that with the benefit of what we know now, the wartime exclusions were a mistake. Most Japanese-Americans demonstrated exceptional fidelity to our nation's ideals and loyalty to the United States despite the hardships visited upon them. There can be no doubt that Executive Order 9066 visited injustice upon loyal Americans of Japanese ancestry.

RECENT LITIGATION

This issue has been the subject of extensive litigation in recent years. In 1983, three separate *coram nobis* petitions were filed seeking to have wartime misdemeanor convictions set aside on the ground that the government knowingly suppressed evidence and misrepresented facts in submissions to the Supreme Court during the 1940's. In response to one of these *coram nobis* petitions filed by Fred Korematsu in the United States District Court for the Northern District of California, Attorney General Smith determined that "it is time to put behind us this controversy . . . and instead reaffirm the inherent right of each person to be treated as an individual." Accordingly, the Attorney General decided that "it is singularly appropriate to vacate [Korematsu's] conviction for nonviolent civil disobedience," as well as to do the same for other similarly situated individuals who request it. Thus, in each of these cases, the United States, while disputing petitioner's allegations, moved to vacate the conviction and dismiss the underlying indictment or information, thus moving effectively to afford petitioners the very relief they sought.

In *Yasui v. United States*, (D. Ore., Jan. 26, 1984), the court granted the government's motion, vacated the conviction and dismissed the petition as moot. Petitioner nonetheless appealed to the Ninth Circuit. Because of Mr. Yasui's recent death, however, the Ninth Court, on March 23, 1987, dismissed the appeal as moot, and the district court's decision vacating petitioner's conviction stands.

In *Korematsu v. United States* (N.D., April 19, 1984) the court denied the government's motion, granted the *coram nobis* petition, but made no findings of fact. Consequently, the United States chose not to appeal.

Finally, in *Hirabayashi v. United States*, (W.D. Wash., Feb. 10, 1986), the court granted the petition to set aside the conviction for failure to report for internment, but refused to set aside the conviction for violating a curfew order. Petitioner appealed from this denial of his *coram nobis* petition as to his curfew violation conviction and the government cross-appealed from the grant of *coram*

nobis as to the evacuation conviction. The appeals were argued on March 2, 1987 and are under submission before the Ninth Circuit.

Hohri v. United States, No. 84-5460, (D.C. Cir., Jan. 21, 1986), is a suit filed on behalf of 120,000 persons of Japanese ancestry and their heirs seeking personal injury and property loss damages claimed to arise out of the evacuation and internment program. The government had prevailed in the district court on limitations and other jurisdictional grounds. In a 2-1 decision, the court of appeals reversed and remanded for trial a portion of plaintiffs' claims.

The court of appeals affirmed dismissal of all personal injury claims and the contract and breach of fiduciary duty claims alleged in the complaint on jurisdictional grounds, but decided that plaintiffs' property damage claims under the Fifth Amendment Takings Clause could not be resolved on preliminary jurisdictional grounds and therefore reached the limitations issue. The majority opinion held that because the Supreme Court had established a presumption in favor of deferring to the military judgment on the necessity for the evacuation program, limitations did not commence to run until Congress created the Commission on Wartime Relocation and Internment of Civilians in 1980. According to the court, the statute creating the Commission thereby "finally removed the presumption of deference to the judgment of the political branches." The court also concluded that the American-Japanese Claims Act did not provide an exclusive remedy because the Act did not provide relief that encompassed all damages required to make whole persons who suffered a "taking."

Chief Judge Markey of the Federal Circuit, sitting by designation, dissented. In his view, the appeal should have been transferred to the Federal Circuit for disposition and, in any event, the statute of limitations barred this suit.

The United States filed a petition for rehearing and suggestion for rehearing *en banc*; the suggestion was denied by a split *en banc* court (6-5). Thereafter, both plaintiffs and the United States filed petition for writs of certiorari with the Supreme Court which granted the petition of the United States and has not taken action on plaintiffs' petition. The oral argument was heard on April 20, 1987.

H.R. 442

I would like to now address some of the Department's concerns with the specific provisions of H.R. 442.

FINDINGS

Section 2(a) provides congressional findings: (1) that the findings of the Commission on Wartime Relocation and Internment of Civilians describe the circumstances of the exclusion, relocation and internment of citizens and aliens of Japanese and Aleut ancestry; (2) that the internment of those persons of Japanese ancestry on the West Coast "was carried out without any documented acts of espionage or sabotage, or other acts of disloyalty" by them; (3 and 4) that there was no adequate military or security reason for the internment and that it was caused instead, by racial prejudice, war

hysteria, and a failure of political leadership; (5) that the excluded persons of Japanese ancestry suffered enormous material, intangible, educational and job training losses; and (6) that the "basic civil liberties and constitutional rights" of those persons of Japanese ancestry were fundamentally violated by that evacuation and internment. Section 2(b) similarly states the purposes of the legislation. Section 101 apologizes on behalf of the nation for the wartime relocation and internment program.

We have reviewed the Commission's report. It does call attention to the hardships suffered by Americans of Japanese ancestry. However, it must be recognized that conclusions and subjective determinations which necessarily are in integral part of the report are subject to debate. Indeed, in June 1983, the Commission released an addendum to its report discussing a multivolume Department of Defense publication entitled "The 'magic' Background of Pearl Harbor" because it had not discussed this important source of wartime intelligence in its report.

We question the wisdom and, indeed, the propriety, of accusing leaders of the United States government during World War II, both civilian and military, of dishonorable behavior. The wartime decisions which form the predicate for this legislation were taken against a backdrop of fears for the survival of our nation; we recently had been attacked by a totalitarian regime which had enjoyed a virtually unbroken string of military success, both before and immediately after it commenced war upon us. The decision made by our wartime leaders should be considered in that context.

It may be that the Commission is correct in concluding that the assumptions on which the exclusion and evacuation and detention programs were based were erroneous. It is a long unsubstantiated further step, however, to brand those actions as a product of "racial prejudice, or hysteria, and a failure of political leadership." In most instances, the persons so accused are not alive to defend themselves today. Moreover, some of the Commission's conclusions and its selection of evidence marshaled in support of its conclusions are suspect. These matters are best left to historical and scholarly analysis rather than debated by Congress.

We do not believe that this bill should be the vehicle for promulgation of an "official" version of these historical events. The Department opposes enactment of the findings in section 2.

PARDON RECOMMENDATIONS

The Department opposes sections 202(a) and 201(b), which request the Attorney General to review certain criminal convictions with a view toward pardon and to submit pardon recommendations to the President in certain cases.

The pardon provision of the bill is completely unnecessary. As noted above, the government has offered to vacate the conviction of all Japanese-Americans who were convicted of violating wartime restrictions imposed by Executive Order 9066 and has done so in the three *coram nobis* proceedings filed to date. It appears that only about 39 Japanese Americans were convicted of misdemeanor violations of Executive Order 9066, many of whom may no longer be living. Vacating the convictions and dismissing the underlying

indictments or informations of Japanese-Americans affords these individuals the full and meaningful relief to which a pardon would entitle them, and completely obviates the pardon review process provided in § 201.

Moreover, while we noted that section 201(b) of this bill attempts to correct the constitutional flaws presented by the pardon provision of this legislation in the 99th Congress, we remain dubious of the constitutional validity of this provision when Article II, Section 2, Clause 1 of the Constitution grants virtually absolute pardon authority in the President. As we noted in our bill report on the 99th Congress, the granting of a pardon is an act of grace by the President, and the Constitution does not invest the legislature with any authority in the pardon process. The Supreme Court has confirmed that the President's authority to grant pardons may not be limited by legislative restriction. *Schick v. Reed*, 419 U.S. 256 (1974).

The Attorney General's advisory function (now the Associate Attorney General by assignment, 28 CFR 0.36,) in connection with the consideration of all forms of Executive clemency, including pardon, commutation (reduction) of sentence, remission of fine and re-
prieve, and the President's ultimate decision to grant or deny Executive clemency, is wholly discretionary. Department of Justice officials involved in discharging this function act solely as confidential advisors to the President in the exercise of the pardon power, and not in fulfillment of any statutory mandate to conduct the kind of proceedings contemplated in Section 201.

Additionally, the language of § 201 is ambiguous in at least two respects. Section 201(a) directs the review of "any case in which an individual who, while a United States citizen or permanent resident alien of Japanese ancestry, was convicted of a violation of . . . any law of the United States," including convictions for violations of military directives respecting the exclusion, relocation or detention of individuals solely on the basis of Japanese ancestry. First, the class of individuals whose cases are to be reviewed is vaguely defined. The present wording of Section 201(a) could be interpreted to request the review of not only the cases of those living but also the cases of those who are deceased. It has been a long established practice not to grant posthumous pardons. The legal basis of the practices is in large part the concept that a pardon, like a deed, must be accepted by the person to whom it is directed. Acceptance, of course, is impossible when the recipient is deceased. See, *United States v. Wilson*, 7 Pet. 160 (1833); *Burdick v. United States*, 236 U.S. 79 (1915); *Meldrim v. United States*, 7 Ct. 595 (1871); *Sierra v. United States*, 9 Ct. Cl. 224 (1873); 11 Op. A.G. 35 (1864).

Second, provision for the review of "any cases" involving violations of "any law of the United States . . . or other action made by or on behalf of the United States" is too broad. This language may be interpreted to require the review of both felony and misdemeanor offenses, as well as require the review of any crime committed during the evacuation, relocation and internment period, such as murder, extortion, kidnapping, theft, counterfeiting and other offenses which may have been committed on a government reservation by members of the class.

AGENCY REVIEW OF APPLICATIONS

Section 202 would require agencies to review with liberality applications for restitution of positions, status or entitlement, giving full consideration "to the historical findings" of the Commission and the findings in the Act. We see no need for this provision, are uncertain as to how it could fairly be applied in practice at this late date, and suggest that it could lead to extreme difficulties in administration with resultant litigation.

THE RESTITUTION FUND

Section 203 would establish a Civil Liberties Public Education Fund in the amount of \$1.5 billion to be available for disbursement pursuant to sections 204 and 205.

Section 204 provides for the tax free award of \$20,000 to every living person of Japanese ancestry who was deprived of liberty or property as the result of the wartime programs. Non-residents apparently would be entitled to the benefits of this section. Since, according to the recommendations of the Commission, approximately 60,000 persons would benefit from those awards, about \$1.2 billion would be expended on this program.

Section 205 would establish a Board of Directors of the fund provided for in section 204. The board would disburse the remaining \$300 million or more of the Fund for the purposes enumerated in subsection (b) of section 205, including projects "for the general welfare of the ethnic Japanese community in the United States."

The Department opposes these provisions for paying additional reparations to individuals where Congress has already enacted a comprehensive statutory scheme which provided a reasonable and balanced contemporaneous remedy to affected individuals. By enacting the 1948 American-Japanese Claims Act, Congress recognized long ago that many loyal Americans of Japanese decent were injured by the wartime relocation and internment program. Although the Commission's report challenges the amount of compensation chosen by Congress as inadequate, Congress has spoken after considerable debate, and there is no good reason to question that settlement now three-and-a-half decades later.

The American-Japanese Claims Act did not include every item of damages that was or could have been suggested. It did, however, address the hardships visited upon persons of Japanese ancestry in a comprehensive, considered manner, taking into account individual needs and losses. This effort to correct injustice to individuals was in keeping with our nation's best tradition of individual rather than collective response and was more contemporaneous with the injuries to the claimants than would be any payments at this late date.

Moreover, in 1956, Congress considered legislation that directly called into question the adequacy of the claims settlements provided in the 1948 Act. The bill as introduced would have liberalized the relief provisions of the Act by granting expanded compensation for certain losses. Congress rejected this proposal because it "would substantially reopen the entire project." H.R. Rep. 1809, 84th Cong., 2d Sess., 9 (1956). Thus, with the hardships and deprivations of the internees still relatively contemporaneous, a later Congress

adjudged the American-Japanese Claims Act to be fundamentally sound. Nothing has occurred since Congress last considered the matter to warrant a supplement payment to internees. The results of the settlement process under the Act, long since completed, deserve to be accepted as a fair resolution of the claims involved.

The bill's restitution provisions would also impose heavy administrative burdens on the Attorney General. The bill would confer on the Attorney General responsibility for investigating, finding and paying eligible recipients under severe time constraints. The Attorney General is specifically prohibited even from requiring eligible persons to make application for these payments. This duty could require the Department to commit a considerable amount of manpower and resources to the search for eligible recipients. Yet, the bill would provide no funding for the location or identification of eligible recipients and would expressly prohibit the Attorney General from recovering expenses incurred in carrying out this responsibility from the Trust Fund set up to pay eligible recipients.

We also oppose the concept of a special fund incorporated in section 205. As noted earlier, we do not believe it is the proper function of our government to adopt an "official" version of these historical events. Similarly, we oppose spending hundreds of millions of dollars to "educate" the American people to accept this official interpretation of our history.

DEFINITION OF ELIGIBLE INDIVIDUALS

We also oppose the breadth of the definitions of eligible individuals set forth at section 206 of the bill.

First, the term "living" is imprecise. It is unclear whether the term is intended to refer to the time of the enactment of the legislation, the time when application for the benefit is made, or to the time when payment of a benefit is made.

Second, the definition would cover "any living individual" who had been subject to the exclusion, relocation, or detention, without any express exclusion of persons residing outside the United States. See, § 206(2). The all-inclusiveness of the term "eligible individual" overlooks the important factor that at least several hundred of the detainees were fanatical pro-Japanese, had terrorized their fellow detainees loyal to the United States, and voluntarily sought repatriation to Japan after the end of the war. See, *Acheson v. Murakami*, 176 F. 2d 953, 958 (9th Cir. 1949); *McGrath v. Abo*, 186 F. 2d 766, 771-72 (9th Cir.), cert. denied, 342 U.S. 832 (1951); and in particular Findings of the Fact 18, 20, 22, 25, 27, 29, 35, 39, 40, 45, 46 of the United States District Court for the Southern District of California in *Murakami v. Acheson*, attached to and made part of the court of appeals' decision in that case. It would be unfair to the United States and to the loyal persons of Japanese descent if the benefits of this legislation were available to persons who were disloyal to the United States.

ADDITIONAL VIEWS OF HON. DANIEL E. LUNGREN

As the Majority has noted, the purpose of H.R. 442 is to implement the recommendations of the Commission on Wartime Relocation and Internment of Civilians. As the Vice-Chairman and only sitting member of Congress to have served on the Commission I concurred with its findings that:

The broad historical causes that shaped these decisions were race prejudice, war hysteria and a failure of political leadership.¹

These findings were the result of 20 days of hearings, and testimony from over 750 witnesses. In terms of the historical record, there was no dissent with respect to the fact that all three of these elements, race prejudice, war hysteria, and a failure of political leadership, played a role in leading to the relocation and internment.

In this regard the decision of the Committee to delete the reference to "a failure of political leadership" is inconsistent with the findings of the Commission. While a certain humility is called for in examining the actions of public officials with the advantage of 20-20 hindsight, it is nonetheless clear that honest mistakes in judgment were made by men of otherwise unquestioned character. For example:

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

By the participants own accounts, there is no rational explanation for maintaining the exclusion of loyal ethnic Japanese from the West Coast for the eighteen months after May 1943—except political pressure and fear. Certainly there was no justification arising out of military necessity.²

I therefore object to the Committee's departure from the Commission's own findings on this issue.

In the historical report of the Commission, "Personal Justice Denied," we achieved what I believed to be its primary charge—to educate the American people about how such a thing could happen.

¹ "Personal Justice Denied," Report of the Commission on Wartime Relocation and Internment of Civilians, December 1982, p. 18.

² *Ibid.*, pps. 15-16.

The preservation of a credible sense of our nation's history enables us to acknowledge error with the hope that doing so will lessen the possibility that such mistakes will ever happen again.

Thus, I concur with the Committee report to the extent that it is consistent with the findings of the Commission in acknowledging the error in public policy which led to the internment and relocation.

Yet, in my estimation one of the serious flaws in the Commission report was the failure of the Commission to hear any testimony or provide any serious analysis of a Department of Defense publication, "The MAGIC Background of Pearl Harbor." To overlook the impact that the decoded Japanese cables compiled in the "MAGIC" volumes might have had with respect to the decisions of our nation's leadership unfortunately undermines the credibility of our historical pursuit.

This is a ripe area for further historical scrutiny. To the extent that the cables impacted the decision making process they are relevant in judging our government's decision makers of that time. Accordingly, excerpts have been appended to these remarks in order to be studied in that context.

Consistent with my views expressed on the Commission itself, I must also dissent from the position of the majority with respect to the question of reparation payments.

It was clear in creating the Commission, that there was no understanding that its purpose was to provide monetary redress. In fact, many of the most ardent proponents of the legislation which gave rise to the Commission went to great lengths to assure us that this was indeed not the case. This is illustrated by testimony before the Senate Committee on Governmental Operations by Mr. William Hohri, a proponent of reparations. In his statement to the Committee, he indicated that a primary cosponsor of the legislation authorizing the Commission had said that "the only condition I made the other four Members of Congress to agree to was no monetary reparations would ever be asked. If they had not agreed, I would not have endorsed the bill."³

While the Congress certainly has the right to make an independent judgment on the issue of reparations at this time, it is in my view inappropriate. Ironically, the rationale of the Commission report eloquently undermined its recommendations for reparations:

Two and a half years behind the barbed-wire of a relocation camp, branded potentially disloyal because of one's ethnicity alone—these injustices cannot be translated into dollars and cents. Some find such an attempt in itself a means of minimizing the enormity of these events in a constitutional republic. History cannot be undone; anything we do now must inevitably be an expression of regret and an affirmation of our better values as a nation, not an accounting which balances or erases the events of the war. That is now beyond anyone's power.⁴

In my estimation it is folly to try to judge history as an evolving balance sheet. Do we truly believe that nothing can be genuine unless it involves the coin of the realm? Have we reached such a state in our society that, unless money is exchanged, the sincerity of our expression is brought into question? I would certainly hope not, and accordingly dissent from the conclusions of the majority report on the question of monetary reparations.

In supporting the Commission's recommendations on the question of an official apology, and actions to effect its educational objectives, it is my hope that such action will give rise to broader consideration of this issue in diverse forums and numerous segments of our society. In this regard, I would like to commend the Smithsonian Institution for its exhibit "A More Perfect Union: Japanese Americans and the U.S. Constitution" which is scheduled to open on October 1, 1987. There are great lessons to be learned by future generations from this ignominious chapter in our nation's history.

DANIEL E. LUNGREN.

³ Hearing Before the Committee on Governmental Affairs on S. 1647, United States Senate, March, 18, 1980, (96th Cong.) p. 157.

⁴ "Personal Justice Denied, Part 2: Recommendations," June 1988, p. 6.

THE "MAGIC" BACKGROUND OF PEARL HARBOR

VOLUME I
(February 14, 1941—May 12, 1941)

DEPARTMENT OF DEFENSE

UNITED STATES OF AMERICA

For sale by the Superintendent of Documents, U.S. Government Printing Office
Washington, D.C. 20402 (9-part set; sold in sets only)

Stock No. 006-000-00233-9

FOREWORD

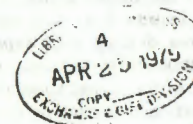
The Department of Defense is releasing for public use and research this multi-volume study giving the "MAGIC" or communications intelligence background of the 1941 Pearl Harbor disaster. In its review of classified records pursuant to E.O. 11652, the Department of Defense decided that it was in the public interest to declassify the intelligence which the U.S. obtained from the communications of its World War II enemies. This study contains a major part of the communications intelligence which the U.S. derived from intercepted Japanese communications during 1941.

The documentation presented here is both voluminous and significant. The large volume of intelligence concerning Japanese secret plans, policies, and activities which U.S. cryptologic specialists produced will augment the information already available on Pearl Harbor from Congressional and other public hearings. Of particular importance in this study is the correlation of the intelligence with the discussions of Secretary of State Hull and Japanese Ambassador Nomura in the critical months before Pearl Harbor. Scholars no doubt will find new challenges in this voluminous intelligence information as they examine not only the decisions made by the U.S. but also the intelligence which influenced and occasionally prompted those decisions.

Department of Defense

1977

United States of America



THE "MAGIC" BACKGROUND OF PEARL HARBOR

PREFACE

By the fall of 1940 United States government cryptanalysts had solved some of the Japanese Foreign Office's highest grade cryptographic systems. The interception, decryption and translation, on a current basis, of secret Japanese world-wide diplomatic messages then began. The information the United States derived from this source, designated *MAGIC*, was highly classified and closely guarded. It went to only a few of the highest-level United States officials.

Included in *MAGIC* were dispatches between the Foreign Office in Tokyo and the Japanese Ambassador in Washington. Intelligence gained by the United States from these particular dispatches became especially important during the "talks" between the United States Secretary of State, Mr. Cordell Hull, and the Japanese Ambassador, Admiral Kichisaburo Nomura. Begun in February 1941 and lasting until the military forces of Japan attacked Pearl Harbor, these talks proceeded in secret by agreement between the two sides. Their objective was to improve the rapidly deteriorating United States-Japanese relations. Held in Washington, these talks usually took place in Mr. Hull's apartment or, by means of secret access, in the White House with the President himself. Secretary Hull's memoirs of these talks appear in the United States Department of State official history of that period, published in 1943: *Papers Relating to The Foreign Relations of the United States, Japan 1931-1941*, two volumes (GPO).

During 1944, several members of the United States cryptanalytic organization began preparing a highly classified history of these critical United States-Japanese negotiations. They placed in juxtaposition an account of the talks from Mr. Hull's memoirs and the Japanese diplomatic messages available to the United States which were pertinent to those negotiations. The information so arranged became Part A of each of the five volumes in the series. Parts B and C contained dispatches dealing with Japanese espionage activities in the Western hemisphere and Japanese diplomatic relations world-wide, respectively. Included in the appendix to each volume were the actual translated Japanese messages which had been used as the basis for that particular narrative section. The compilers of this historical account completed the five volumes in 1946. In 1945, the Joint Congressional Committee on the Investigation of the Pearl Harbor Attack used some of these translations, especially those of late 1941, as unclassified exhibits.

A few explanations for the reader are in order. Occasionally in the text of a given translation a series of dashes will occur. These blank spaces indicate that a portion of the original encrypted text was not intercepted, was garbled, or could not be decrypted.

The date when each decrypted message was translated, e.g., "TRANS 8-28-41", shows the earliest date when this information could have been made available to that limited number of senior officials of the United States government authorized to receive this material. In this connection, the reader may wish to review the system of dissemination of *MAGIC* during this period, as published in the records of the Joint Congressional Committee on the Investigation of the Pearl Harbor Attack (PHA) (see, for example, Volume 36, p. 22-23; Volume II, p. 5475). The Japanese diplomats of 1941 exchanged a large number of messages, and senior United States officials probably could not have read all these messages in their entirety. Which messages were actually seen by them and which were not are questions beyond the scope of this study.

The date shown at the top right of the translation, it is important to note, is always the date assigned by the originator of the message. The time in hours and minutes is not available. An understanding of the world's time zones is essential, particularly for the period

just prior to the attack on Pearl Harbor. Technical problems account for the differences which occur between the "day of origin" and "the day translated."

From time to time references are made to "Kana". Kana refers to the system of notation for representing the Japanese language in terms of sounds rather than in written ideographs. This system consists of approximately fifty syllables: a, i, u, e, o, ka, ki, ku, ke, ko, etc. There is a symbol for each that may be used in written form. For example, ROOSEVELT in Kana becomes "RO-O-SU-BE-RU-TO." These symbols are in contrast to the ideographic system, in which each character represents a unique meaning, rather than a sound. When the United States translator could not be certain of the name (place or person) he indicates this fact in a footnote as "Kana spelling."

The Department of Defense reviewed the original series of volumes for declassification and reissue in unclassified form. In this process the reviewers located many additional pertinent Japanese messages. They either integrated them at the appropriate places in the appendices or included them in the last volume of the series. Necessarily, there has been editing, cross-checking, clarification and supplementation. These five volumes, *The "MAGIC" Background of Pearl Harbor*, should best be viewed as a compilation of historical source materials—many of which have not been disclosed to the public before—and not necessarily as a definitive history of that tumultuous period.

In the process of declassifying and re-publishing the original 1944 version of *The "MAGIC" Background of Pearl Harbor*, efforts were made to preserve as much of the original publication as possible. The original style and format remain the same. Spellings of personal and place names are those of that period, except where some misunderstanding might arise. The text and decrypted messages still reflect the strong emotions of a nation at war. References to the enemy, now considered perhaps dated and quaint, were not always the most flattering. These references remain intact. Identifications of individuals are those given in the original.

The re-published version respects the rights of privacy of individuals, business firms and so on. From time-to-time the footnote, "DoD Comment: Name withheld" will be seen.

The original translations, decrypted by U.S. cryptanalysts in 1941, were heavily footnoted with cross references, identifying data, and clarifying information. In accordance with editorial practices of that time, these footnotes were placed at the end of the translation, regardless of the number of pages. Both the original 1944 versions and the declassified re-publication continue that editorial practice.

Most of the technical processing details and symbols have been deleted. Such information, it is believed, would not only be superfluous and confusing to the reader, but would be of no historical value. Each of the first four volumes covers a particular period. Volume V contains supplementary and explanatory material, including an Index to all the volumes.

Department of Defense

United States of America

No. 118

FROM: Tokyo (Matsuoka)
TO: Washington (Koshi)

January 30, 1941
043.

Foreign Office secret.

Heretofore, we have placed emphasis on publicity and propaganda work in the United States. In view of the critical situation in the recent relations between the two countries, and for the purpose of being prepared for the worst, we have decided to alter this policy. Taking into consideration the small amount of funds we have at our disposal, we have decided to de-emphasize propaganda for the time being, and instead, to strengthen our intelligence work.

Though we must give the matter of intelligence work our further study—in this connection we are at present conferring with the intelligence bureau—we have mapped out a fundamental program, the outline of which is contained in my supplementary cable No. 44*.

Please, therefore, reorganize your intelligence set-up and put this new program into effect as soon as possible.

Cable copies of this message, as "Minister's orders" to Canada, Mexico, (a copy to be relayed from Mexico to Mexicali), San Francisco, (copies from San Francisco to Honolulu, Los Angeles, Portland, Seattle, and Vancouver), New York, New Orleans, and Chicago.

*See I, 119.

Trans. 2-7-41

No. 119

FROM: Tokyo (Matsuoka)
TO: Washington (Koshi)

January 30, 1941
44.

(In two parts—complete).

(Foreign Office secret).

(1) Establish an intelligence organ in the Embassy which will maintain liaison with private and semi-official intelligence organs (see my message to Washington # 591* and # 732* from New York to Tokyo, both of last year's series).

With regard to this, we are holding discussions with the various circles involved at the present time.

(2) The focal point of our investigations shall be the determination of the total strength of the U.S. Our investigations shall be divided into three general classifications: political, economic, and military, and definite course of action shall be mapped out.

(3) Make a survey of all persons or organizations which either openly or secretly oppose participation in the war.

(4) Make investigations of all anti-Semitism, communism, movements of Negroes, and labor movements.

(5) Utilization of U.S. citizens of foreign extraction (other than Japanese), aliens (other than Japanese), communists, Negroes, labor union members, and anti-Semites, in carrying out the investigations described in the preceding paragraph would undoubtedly bear the best results.

These men, moreover, should have access to governmental establishments, (laboratories?), governmental organizations of various characters, factories, and transportation facilities.

THE "MAGIC" BACKGROUND OF PEARL HARBOR

(6) Utilization of our "Second Generations" and our resident nationals. (In view of the fact that if there is any slip in this phase, our people in the U.S. will be subjected to considerable persecution, and the utmost caution must be exercised).

(7) In the event of U.S. participation in the war, our intelligence set-up will be moved to Mexico, making that country the nerve center of our intelligence net. Therefore, will you bear this in mind and in anticipation of such an eventuality, set up facilities for a U.S.-Mexico international intelligence route. This net which will cover Brazil, Argentina, Chile, and Peru will also be centered in Mexico.

(8) We shall cooperate with the German and Italian intelligence organs in the U.S. This phase has been discussed with the Germans and Italians in Tokyo, and it has been approved.

Please get the details from Secretary Terasaki upon his assuming his duties there.
Please send copies to those offices which were on the distribution list of No. 43*.

*See I, 112.

*Has no bearing on this subject. # 732 probably an error.

(See No. 4)—See I, 118.

Trans. 2-7-41

No. 120

FROM: New York (Morishima)
TO: Tokyo

February 26, 1941
60.

The situation is very strained and we have to review our Embassy's intelligence and propaganda work. On this subject last year I sent you my # 762*. You in return sent # 43* and # 44* in the form of instructions to Washington. I am endeavoring to strengthen and further revise my work here in New York and in order to achieve liaison and cooperation, I consider it necessary to have Consul FUKUSHIMA, who has been doing this kind of work all along and who knows his business, make a trip to New York before going back to Japan. Therefore, I want you to be sure to approve of this.

Relayed to Los Angeles.

*New York discusses plan to strengthen the Japanese political propaganda methods in the United States for 1941.

*Tokyo directs Washington to reorganize their intelligence set-up and put into effect the new program which will de-emphasize propaganda and strengthen intelligence work. See I, 118.

*Outline of major points in connection with setting up of intelligence organization in the United States. See I, 119.

Trans. 3-6-41

No. 121

FROM: Mexico (Miura)
TO: Tokyo

February 14, 1941
16.

(Abstract)

Some recent messages have been badly garbled. I suspect that American companies may be purposely garbling the texts.

Trans. 2-18-41

- (2) Official and public attitude and reaction to the above.
- (3) Number of persons on the staff and employed by the offices of the above mentioned three countries.
- (4) Has there been an increase in the influx of nationals of those three countries?
- (5) All other items which may be of value in determining our policy.
- Please send the outline of your findings in so far as the measures taken by Germany are concerned, by cable.

*Outline of revised policy to be followed by Japanese offices in South and Central America in investigation activities. See I, 129.

Trans. 3-6-41

No. 131

FROM: Tokyo (Matsuoka)
TO: Washington (Koshi)

February 15, 1941
073.

(2 parts—complete)

Re my # 43*.

The information we particularly desire with regard to intelligence involving U.S. and Canada, are the following:

1. Strengthening or supplementing of military preparations on the Pacific Coast and the Hawaii area; amount and type of stores and supplies; alterations to air ports (also carefully note the clipper traffic).
 2. Ship and plane movements (particularly of the large bombers and sea planes).
 3. Whether or not merchant vessels are being requisitioned by the government (also note any deviations from regular schedules), and whether any remodelling is being done to them.
 4. Calling up of army and navy personnel, their training, (outlook on maneuvers) and movements.
 5. Words and acts of minor army and navy personnel.
 6. Outlook of drafting men from the view-point of race. Particularly, whether Negroes are being drafted, and if so, under what conditions.
 7. Personnel being graduated and enrolled in the army and navy and aviation service schools.
 8. Whether or not any troops are being dispatched to the South Pacific by transports; if there are such instances, give description.
 9. Outlook of the developments in the expansion of arms and the production set-up; the capacity of airplane production; increase in the ranks of labor.
 10. General outlooks on Alaska and the Aleutian Islands, with particular stress on items involving plane movements and shipment of military supplies to those localities.
 11. Outlook on U.S. defense set-ups.
 12. Contacts (including plane connections) with Central and South America and the South Pacific area. Also outlook on shipment of military supplies to those areas.
- Please forward copies of this message as a "Minister's Instruction" to New York, San Francisco, Los Angeles, Seattle, Portland, (Chicago or New Orleans?) Vancouver, Ottawa, and Honolulu. Also to Mexico City and Panama as reference material.

*"We have decided to de-emphasize our propaganda work and strengthen out intelligence work in the U.S." See I, 118.

Trans. 2-20-41

THE "MAGIC" BACKGROUND OF PEARL HARBOR

No. 174

FROM: Los Angeles (Nakauchi)
TO: Tokyo (Gaimudaijin)

May 9, 1941
067.

(In 2 parts—complete).

Strictly Secret.

Re your message # 180 to Washington.*

We are doing everything in our power to establish outside contacts in connection with our efforts to gather intelligence material. In this regard, we have decided to make use of white persons and Negroes, through Japanese persons whom we can't trust completely. (It not only would be very difficult to hire U.S. (military ?) experts for this work at the present time, but the expenses would be exceedingly high.) We shall, furthermore, maintain close connections with the Japanese Association, the Chamber of Commerce, and the newspapers.

With regard to airplane manufacturing plants and other military establishments in other parts, we plan to establish very close relations with various organizations and in strict secrecy have them keep these military establishments under close surveillance. Through such means, we hope to be able to obtain accurate and detailed intelligence reports. We have already established contacts with absolutely reliable Japanese in the San Pedro and San Diego area, who will keep a close watch on all shipments of airplanes and other war materials, and report the amounts and destinations of such shipments. The same steps have been taken with regard to traffic across the U.S.-Mexico border.

We shall maintain connection with our second generations who are at present in the (U.S.) Army, to keep us informed of various developments in the Army. We also have connections with our second generations working in airplane plants for intelligence purposes.

With regard to the Navy, we are cooperating with our Naval Attaché's office, and are submitting reports as accurately and as speedily as possible.

We are having Nakazawa investigate and summarize information gathered through first hand and newspaper reports, with regard to military movements, labor disputes, communistic activities and other similar matters. With regard to anti-Jewish movements, we are having investigations made by both prominent Americans and Japanese who are connected with the movie industry which is centered in this area. We have already established connections with very influential Negroes to keep us informed with regard to the Negro movement.

*See I, 165. It is routed as Foreign Minister's instructions to: Ottawa, Mexico, San Francisco, New York, New Orleans, San Francisco to relay to Honolulu, Los Angeles, Seattle, Portland, Vancouver.

Trans. 5-19-41

No. 175

FROM: Seattle (Sato)
TO: Tokyo

May 11, 1941
45.

(3 parts—complete).

Re your # 180 to Washington.

1. Political Contacts.

We are collecting intelligences revolving around political questions, and also the question of American participation in the war which has to do with the whole country and this local area.

2. *Economic Contacts.*

We are using foreign company employees, as well as employees in our own companies here, for the collection of intelligences having to do with economics along the lines of the construction of ships, the number of airplanes produced and their various types, the production of copper, zinc and aluminum, the yield of tin for cans, and lumber. We are now exerting our best efforts toward the acquisition of such intelligences through competent Americans. From an American, whom we contacted recently, we have received a private report on machinists of German origin who are Communists and members of the labor organizations in the Bremerton Naval Yard and Boeing airplane factory. Second generation Japanese -----

3. *Military Contacts.*

We are securing intelligences concerning the concentration of warships within the Bremerton Naval Yard, information with regard to mercantile shipping and airplane manufacturer, movements of military forces, as well as that which concerns troop maneuvers.

With this as a basis, men are sent out into the field who will contact Lt. Comdr. OKADA, and such intelligences will be wired to you in accordance with past practice. KANEKO is in charge of this. Recently we have on two occasions made investigations on the spot of various military establishments and concentration points in various areas. For the future we have made arrangements to collect intelligences from second generation Japanese draftees on matters dealing with the troops, as well as troop speech and behavior. -----

4. *Contacts With Labor Unions.*

The local labor unions A.F. of L. and C.I.O. have considerable influence. The (Socialist ?) Party maintains an office here (its political sphere of influence extends over twelve zones.) The C.I.O., especially, has been very active here. We have had a first generation Japanese, who is a member of the labor movement and a committee chairman, contact the organizer, and we have received a report, though it is but a resume, on the use of American members of the (Socialist ?) Party. ----- OKAMARU is in charge of this.

5. In order to contact Americans of foreign extraction and foreigners, in addition to third parties, for the collection of intelligences with regard to anti-participation organizations and the anti-Jewish movement, we are making use of a second generation Japanese lawyer.

This intelligence -----

Trans. 6-9-41

CIVIL LIBERTIES ACT

JULY 26, 1988.—Ordered to be printed

Mr. FRANK, from the committee of conference,
submitted the following

CONFERENCE REPORT

[To accompany H.R. 442]

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 442) to implement recommendations of the Commission on Wartime Relocation and Internment of Civilians, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

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;

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.—**

(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 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 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.

(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 Associa-

tion, 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.

(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 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.

And the Senate agree to the same.

PETER W. RODINO, Jr.,

BARNEY FRANK,

H.L. BERMAN,

PAT SWINDALL,

Managers on the Part of the House.

JOHN GLENN,

SPARK M. MATSUNAGA,

TED STEVENS,

WARREN B. RUDMAN,

Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 442) to implement the recommendations of the Commission on Wartime Relocation and Internment of Civilians, submit the following joint statement to the House and Senate in explanation of the effect of the action agreed upon by the managers and recommended in this conference report:

The Senate amendment to the text of the bill struck out all of the House bill after the enacting clause and inserted a substitute text.

The House recedes from its disagreement to the amendment of the Senate with an amendment which is a substitute for the House bill and the Senate amendment. The differences between the House bill, the Senate amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, structural changes, conforming changes made necessary by amendments reached by the conferees, and minor drafting and clarifying changes.

SECTION 1. PURPOSES

House bill

The House bill has no provision for implementing the recommendations of the Commission on Wartime Relocation and Internment of Civilians (Commission) to make restitution to the Aleut residents of the Aleutian Islands and Pribilof Islands as a purpose of the legislation.¹

Senate amendment

The Senate amendment provides that one purpose of the Act is to provide for restitution to the Aleut residents of the Aleutian Islands and Pribilof Islands.

Conference agreement

The conference agreement follows the Senate amendment. The conferees agree to include restitution to the Aleuts as a stated purpose of the legislation.

¹ The House Committee on the Judiciary has favorably reported a bill, H.R. 1681, which provides for restitution to the Aleuts. This bill has not yet been considered by the House.

SECTION 2. STATEMENT OF THE CONGRESS

House bill

The House bill includes a Statement of the Congress recognizing the grave injustice done to both citizens and permanent resident aliens of Japanese ancestry by their evacuation, relocation and internment during World War II, and apologizing on behalf of the Nation. It contains no statement that the evacuation, relocation, and internment of citizens and permanent resident aliens of Japanese ancestry during World War II was carried out "without any acts of espionage or sabotage documented by the Commission." It also contains no statement of Congress concerning the Aleuts relocated during World War II.

Senate amendment

The Senate amendment contains the findings of the Commission regarding the circumstances of the evacuation, relocation and internment of the persons of Japanese ancestry and the treatment of the Aleuts during World War II. The Senate findings state that the internment was carried out without any documented acts of espionage or sabotage committed by citizens and resident aliens of Japanese ancestry. The Senate amendment includes a separate section accepting the findings of the Commission, recognizing the grave injustice done, and apologizing on behalf of the Nation.

Conference agreement

The conference agreement follows the House format providing for a Statement of the Congress and includes a statement concerning the treatment of the Aleuts.

The conference agreement follows the Senate amendment to clarify that the source for "without any acts of espionage or sabotage" was the Commission on Wartime Relocation and Internment of Civilians and is not an independent finding of the Congress. The conferees agreed for accuracy to add the following statement, "without any acts of espionage or sabotage documented by the Commission."

TITLE I—"CIVIL LIBERTIES ACT OF 1988"

SECTION 102. REMEDIES WITH RESPECT TO CRIMINAL CONVICTIONS

House bill

The House bill does not include the word "evacuation" and "internment" as acts for which an individual was convicted of a violation and thereby is eligible for review.

Senate amendment

The Senate amendment includes the words "evacuation" and "internment" as acts for which an individual was convicted of a violation and eligible for review.

Conference agreement

The conference agreement follows the Senate amendment to include the categories of evacuation and internment, which is consist-

ent with the use of the terms throughout both House and Senate bills.

SECTION 103. CONSIDERATION OF COMMISSION FINDINGS BY DEPARTMENTS AND AGENCIES

House bill

The House bill has no provision for reviewing the applications by eligible individual for restitution of a federal benefit lost by the discriminatory act of the U.S. Government based upon giving full consideration to the "findings of the Commission."

Senate amendment

The Senate amendment provides for "giving full consideration to the findings of the Commission" in reviewing the applications of eligible individuals for restitution of a federal benefit.

Conference agreement

The conference agreement follows the Senate amendment to include "giving full consideration to the findings of the Commission" as a basis for the review by federal agencies for restitution of a federal benefit to eligible individuals.

SECTION 104. TRUST FUND

House bill

The House bill requires that the trust fund investment be made in interest-bearing obligations of the United States. It also authorizes an appropriation of \$1,250,000,000 to the Fund over a ten year period.

Senate amendment

The Senate amendment requires that the trust fund be invested pursuant to 31 U.S.C. 9702, which states that trust fund investments be made in government obligations and shall earn interest at an annual rate of at least five percent. The Senate amendment also authorizes an appropriation to the Fund of \$500,000,000 in fiscal 1989, \$400,000,000 in fiscal 1990, \$200,000,000 in fiscal 1991, \$100,000,000 in fiscal 1992 and \$100,000,000 in fiscal 1993.

Conference agreement

Section 104(b) of the conference agreement follows the Senate amendment and requires investment of the fund to be made pursuant to 31 U.S.C. 9702.

The conference agreement also provides in Section 104(e) for an authorization of an appropriation to the fund of \$1,250,000,000 for a ten year period, but the conference agreement limits any appropriation to not more than \$500,000,000 for any fiscal year.

SECTION 105. RESTITUTION

House bill

The House bill provides for payment of \$20,000 to each eligible individual. The bill requires the Attorney General to identify and locate each eligible individual within nine months after the date of

enactment without requiring any application. Any eligible individual may notify the Attorney General of his/her eligibility and provide documentation therefore. The House bill also provides that acceptance of restitution under this Act constitutes a final settlement of the claims of eligible individuals against the United States for acts covered by the legislation and that each eligible individual has six months from notification to accept payment or pursue a judgment or settlement of a claim for acts covered by this legislation. The House bill provides that no payment may be made to any individual who, after September 1, 1987, is awarded a final judgment or settlement of a claim against the United States for such acts. Under the House bill, eligible individuals include those living on the date of enactment otherwise eligible to receive payment, regardless of whether they are alive on the date of payment. Rights to payment of the eligible individual living on the date of enactment are vested at that time.

Senate amendment

The Senate amendment provides for payment of \$20,000 to each eligible individual, requires the Attorney General to locate each eligible individual, and requires the Attorney General to conduct a public awareness campaign as to eligibility. Each of these activities is contingent upon the appropriation of funds to the Attorney General for such purposes. Each eligible individual is encouraged to submit his or her current address to the Department of Justice. The Senate amendment provides for an extinguishment of claims arising from the acts covered by this legislation ten years after the date of enactment of this Act or after the receipt of the total amount of payments under the Act, whichever date occurs first. The Senate amendment requires an eligible individual to be living on date of payment. Heirs of deceased eligible individuals would receive no payment.

Conference agreement

Section 105(a) of the conference agreement provides for payment of \$20,000 to each eligible individual, subject to the availability of funds appropriated for such purpose. The conference agreement provides that the Attorney General shall identify and locate each eligible individual, without requiring any application. The Attorney General should use available funds and resources to complete the identification and location within twelve months after the date of enactment. To the extent that resources are not sufficient to complete the location and identification of all eligible individuals, the Department of Justice is authorized to seek an appropriation of such sums as may be necessary. After the appropriation of such funds, all eligible individuals shall be identified and located within twelve months. The Conferees expect that eligible individuals may submit documentation to the Department of Justice upon the date of enactment of the Act and the Attorney General shall date stamp such submissions, acknowledge their receipt, and compile a roster of eligible individuals without additional funds for this purpose. The Attorney General shall designate an individual to receive such documentation from eligible individuals and publish the notice of such designee in the Federal Register. Subject to the availability of

funds appropriated for such purpose, the Attorney General shall encourage, through a public awareness campaign, each eligible individual to submit his/her address to such designee.

Section 105(a)(5) of the conference agreement provides that acceptance of restitution under this Act constitutes a final settlement of all claims against the United States for acts covered by the legislation. Eligible individuals have eighteen months upon notification that funds are available for payment to accept payment under the Act or to pursue a judgment or settlement of a claim against the United States arising from such acts.

Section 105(a)(7) of the conference agreement follows the House bill in making eligible individuals living on the date of enactment eligible to receive payment. However, payments of the vested rights of deceased persons are limited to three categories: (1) a surviving spouse of one year; (2) if there is no such surviving spouse, then payment in equal shares to all children living at time of payment; and (3) if there is no such surviving spouse or child, payment in equal shares to parents living on date of payment. If there is no surviving spouse, child or parent, such payment shall remain in the Fund for the purposes provided by this Act. The definition of surviving children includes: a natural child whose paternity has been recognized by the parent or by a court, a step child who lived in the household of the eligible individual, and an adopted child. The conferees agreed that no payment shall be made to an eligible individual, who after September 1, 1987, accepts payment pursuant to an award of final judgment or settlement on a claim against the United States for acts covered by this legislation, or to the surviving spouse, child, or parent of such individual.

SECTION 106. BOARD OF DIRECTORS OF THE FUND

House bill

The House bill authorizes the Board to sponsor research and public education activities, and to publish and distribute the hearings and findings of the Commission so that the evacuation, relocation, and internment of United States citizens and permanent resident aliens of Japanese ancestry will be remembered. The House bill also authorizes reasonable administrative expenses.

Senate amendment

The Senate amendment authorizes the Board to conduct all the activities listed in the House bill; in addition, it authorizes expenditures for the general welfare of the ethnic Japanese community in the United States and for comparative studies of similar civil liberties abuses or comparative studies of the effects upon particular groups of racial prejudice embodied by government actions in time of national stress.

Conference agreement

The conferees agreed to follow the House bill on the uses of the Fund and to authorize as a proper additional use the publication and distribution of the Commission's recommendations.

SECTION 108. DEFINITIONS

House bill

The House bill defines an eligible individual as any individual of Japanese ancestry living on the date of enactment who was a United States citizen or a permanent resident alien during the period of evacuation, relocation, and internment and who was confined, held in custody, relocated, or otherwise deprived of liberty or property as the result of certain specified acts of the United States Government. The House definition of eligible individual does not include any individual who, during the period from December 7, 1941 through September 2, 1945, relocated to a country at war with the United States.

Senate amendment

The Senate amendment defines an eligible individual as any living individual of Japanese ancestry who is a United States citizen or permanent resident alien on the date of enactment and who was similarly deprived of liberty and property. It also defines an eligible individual as enrolled on the records of the United States Government during the period December 7, 1941 to June 30, 1946 as being in a prohibited military zone.

Conference amendment

The conferees agreed to follow the House bill to include as eligible individuals those who are living on the date of enactment. It also follows the House bill in requiring that eligible individuals are those who were United States citizens or resident aliens during the evacuation, relocation, and internment period. The conferees agreed to exclude from eligibility those individuals who, during the period from December 7, 1941, through September 2, 1945, relocated to a country at war with the United States.

The conferees also agree to follow the Senate amendment and include in the definition of "eligible individual" those citizens of Japanese ancestry and legal alien residents who left the West Coast voluntarily as the result of military orders prior to the mandatory removal and internment of the Japanese American population. Voluntary evacuees include those Japanese Americans who, prior to the issuance of Executive Order 9066, were ordered by the Navy to leave Bainbridge Island, off the coast of the State of Washington, and Terminal Island, near San Pedro, California. In addition, some 4,889 Japanese Americans left the West Coast during the voluntary phase of the government's evacuation program between the issuance of Public Proclamation No. 1, on March 2, 1942 and Public Proclamation No. 4 on March 27, 1942. These evacuees were required to file "Change of Residence" cards with the Wartime Civil Control Administration and such cards were tabulated following the mandatory removal and internment of the West Coast Japanese American population. The conferees intend to include individuals who filed "Change of Residence" cards during the period between the issuance of Public Proclamation No. 1, on March 2, 1942 and Public Proclamation No. 4 on March 27, 1942 as being "enrolled on the records of the U.S. Government."

TITLE II—"ALEUTIAN AND PRIBILOF ISLANDS RESTITUTION ACT"

The House recedes from its disagreement to the amendment of the Senate in regard to the "Aleutian and Pribilof Islands Restitution Act" with a substitute agreed to in conference which makes clerical corrections, structural changes, and technical and clarifying changes.

TITLE III—TERRITORY OR PROPERTY CLAIMS AGAINST UNITED STATES

The House recedes from its disagreement to the amendment of the Senate in regard to Title III, which provides that 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 with respect to the Aleut tribe of Alaska) to any territory or other property of the United States, nor as providing any basis for compensation in connection with any such claim.

PETER W. RODINO, Jr.,
BARNEY FRANK,
H.L. BERMAN,
PAT SWINDALL,

Managers on the Part of the House.

JOHN GLENN,
SPARK M. MATSUNAGA,
TED STEVENS,
WARREN B. RUDMAN,

Managers on the Part of the Senate.

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THE WHITE HOUSE
Office of the Press Secretary

For Immediate Release

August 10, 1988

The President today signed the following legislation:

H.R. 442, 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.

H.J.Res. 475, which designates October 1988 as "Polish American Heritage Month."

H.R. 3811, to designate the Federal building located at 50 Spring Street, Southwest, in Atlanta, Georgia, as the Martin Luther King, Jr. Federal Building.

S. 2385, which (1) extends through FY 1991 the appropriation authorizations for grants under the Department of Health and Human Services' (HHS) community and migrant health centers programs; (2) authorizes separately through FY 1991 grants to the centers for infant mortality prevention; and (3) makes a number of relatively minor substantive changes in the operations of the two programs.

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THE WHITE HOUSE

Office of the Press Secretary

For Immediate Release

August 2, 1988

TEXT OF A LETTER FROM
THE PRESIDENT TO THE SPEAKER AND
THE REPUBLICAN LEADER OF
THE HOUSE OF REPRESENTATIVES

August 1, 1988

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.

We are particularly pleased that the bill provides for a measured disbursement of the amounts authorized for the trust fund and ensures that acceptance of compensation under the legislation fully satisfies claims against the United States based on the unique circumstances of the 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,

RONALD REAGAN

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THE WHITE HOUSE

Office of the Press Secretary

For Immediate Release

August 10, 1988

REMARKS BY THE PRESIDENT
AT SIGNING CEREMONY FOR
JAPANESE INTERNMENT LEGISLATION

Room 450
Old Executive Office Building

2:33 P.M. EDT

THE PRESIDENT: Thank you all very much. The members of Congress, and 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 United States 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's 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 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 three long years.

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

MORE

I'd like to note that the bill I'm 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, 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 and her parents on the little porch that morning. These two brothers -- like the heroic Kazuo -- had served in the United States 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: "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 -- I hope I pronounce this right -- was Ronald Reagan. (Applause.) 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 bill is signed.) (Applause.)

Thank you all again, and God bless you all. I think this is a fine day. (Applause.)

END

2:40 P.M. EDT