

Case Internment: Reference

Materials: Formerly Sen. Own Bill S. 1647 96th Congress (3 of 5)

Senator Daniel K. Inouye Papers

Japanese Latin American Internment, Box JL11, Folder 3

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Case
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CODE OF FEDERAL REGULATIONS



TITLE 3—THE PRESIDENT 1938—1943 Compilation

CONTAINING THE FULL TEXT OF PRESIDENTIAL DOCUMENTS
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with the Secretary of State in the execution of his authority under this proclamation and any subsequent proclamation, rule, regulation, or order promulgated in pursuance hereof. They shall upon request make available to the Secretary of State for that purpose the services of their respective officials and agents. I enjoin upon all officers of the United States charged with the execution of the laws thereof the utmost diligence in preventing violations of the act of May 22, 1918, as amended by the act of June 21, 1941, and in bringing to trial and punishment any persons who shall have violated any provisions of such acts.

(9) Paragraph 6, part I, of Executive Order 8766, issued June 3, 1941, is hereby superseded by the provisions of this proclamation and such regulations as may be prescribed hereunder.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the seal of the United States of America to be affixed.

DONE at the city of Washington this 14th day of November in the year of our Lord nineteen hundred and forty-one, and of the Independence of the United States of America the one hundred and sixty-sixth.

FRANKLIN D ROOSEVELT

By the President:
CORDELL HULL
Secretary of State.

PROCLAMATION 2524

BILL OF RIGHTS DAY

WHEREAS a Joint Resolution of the Congress, approved August 21, 1941, authorizes and requests the President of the United States "to issue a proclamation designating December 15, 1941 as Bill of Rights Day, calling upon officials of the Government to display the flag of the United States on all Government buildings on that day, and inviting the people of the United States to observe the day with appropriate ceremonies and prayer":

NOW, THEREFORE, I, FRANKLIN D. ROOSEVELT, President of the United

States of America, do hereby designate December 15, 1941 as Bill of Rights Day. And I call upon the officials of the Government, and upon the people of the United States, to observe the day by displaying the flag of the United States on public buildings and by meeting together for such prayers and such ceremonies as may seem to them appropriate.

The first ten amendments, the great American charter of personal liberty and human dignity, became a part of the Constitution of the United States on the 15th day of December 1791.

It is fitting that the anniversary of its adoption should be remembered by the nation which, for one hundred and fifty years, has enjoyed the immeasurable privileges which that charter guaranteed: the privileges of freedom of religion, freedom of speech, freedom of the press, freedom of assembly and the free right to petition the government for redress of grievances.

It is especially fitting that this anniversary should be remembered and observed by those institutions of a democratic people which owe their very existence to the guarantees of the Bill of Rights: the free schools, the free churches, the labor unions, the religious and educational and civic organizations of all kinds which, without the guarantee of the Bill of Rights, could never have existed; which sicken and disappear whenever, in any country, these rights are curtailed or withdrawn.

The 15th day of December, 1941, is therefore set apart as a day of mobilization for freedom and for human rights, a day of remembrance of the democratic and peaceful action by which these rights were gained, a day of reassessment of their present meaning and their living worth.

Those who have long enjoyed such privileges as we enjoy forget in time that men have died to win them. They come in time to take these rights for granted and to assume their protection is assured. We, however, who have seen these privileges lost in other continents and other countries can now appreciate their meaning to those people who enjoyed them once and now no longer can. We understand in some measure what their loss can mean. And by that realization we

and have come to a clearer conception of their worth to us, and to a stronger and more unalterable determination that here in our land they shall not be lost or weakened or curtailed.

It is to give public expression and outward form to that understanding and that determination that we are about to commemorate the adoption of the Bill of Rights and rededicate its principles and its practice.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the seal of the United States of America to be affixed.

DONE at the City of Washington this twenty-seventh day of November in the year of our Lord nineteen hundred and forty-one, and of the Independence of the United States of America the one hundred and sixty-sixth.

FRANKLIN D ROOSEVELT

By the President:
CORDELL HULL
Secretary of State.

PROCLAMATION 2525

[ALIEN ENEMIES—JAPANESE]

AUTHORITY

WHEREAS it is provided by Section 21 of Title 50 of the United States Code as follows:

"Whenever there is a declared war between the United States and any foreign nation or government, or any invasion or predatory incursion is perpetrated, attempted, or threatened against the territory of the United States by any foreign nation or government, and the President makes public proclamation of the event, all natives, citizens, denizens, or subjects of the hostile nation or government, being of the age of fourteen years and upward, who shall be within the United States and not actually naturalized, shall be liable to be apprehended, restrained, secured, and removed as alien enemies. The President is authorized in any such event, by his proclamation thereof, or other public act, to direct the conduct to be observed, on the part of the United States, toward the aliens who become so liable; the manner and degree of the restraint to which they shall be subject and in what cases, and upon what security their residence shall be permitted, and to provide for the removal of those who, not being permitted to reside within the United States, refuse or neglect to depart therefrom; and to establish any other regulations which are found necessary in the premises and for the public safety."

and WHEREAS by Sections 22, 23 and 24 of Title 50 of the United States Code further provision is made relative to alien enemies:

PROCLAMATION

NOW, THEREFORE, I, FRANKLIN D. ROOSEVELT, as PRESIDENT of the United States, and as Commander in Chief of the Army and Navy of the United States, do hereby make public proclamation to all whom it may concern that an invasion has been perpetrated upon the territory of the United States by the Empire of Japan.

CONDUCT TO BE OBSERVED BY ALIEN ENEMIES

And, acting under and by virtue of the authority vested in me by the Constitution of the United States and the said sections of the United States Code, I do hereby further proclaim and direct that the conduct to be observed on the part of the United States toward all natives, citizens, denizens or subjects of the Empire of Japan being of the age of fourteen years and upwards who shall be within the United States or within any territories in any way subject to the jurisdiction of the United States and not actually naturalized, who for the purpose of this Proclamation and under such sections of the United States Code are termed alien enemies, shall be as follows:

All alien enemies are enjoined to preserve the peace towards the United States and to refrain from crime against the public safety, and from violating the laws of the United States and of the States and Territories thereof; and to refrain from actual hostility or giving information, aid or comfort to the enemies of the United States or interfering by word or deed with the defense of the United States or the political processes and public opinions thereof; and to comply strictly with the regulations which are hereby or which may be from time to time promulgated by the President.

All alien enemies shall be liable to restraint, or to give security, or to remove and depart from the United States in the manner prescribed by Sections 23 and 24 of Title 50 of the United States Code, and as prescribed in the regulations duly promulgated by the President.

DUTIES AND AUTHORITY OF THE ATTORNEY GENERAL AND THE SECRETARY OF WAR

And, pursuant to the authority vested in me, I hereby charge the Attorney General with the duty of executing all the regulations hereinafter contained regarding the conduct of alien enemies within continental United States, Puerto Rico, the Virgin Islands and Alaska, and the Secretary of War with the duty of executing the regulations which are hereinafter set forth and which may be hereafter adopted regarding the conduct of alien enemies in the Canal Zone, the Hawaiian Islands and the Philippine Islands. Each of them is specifically directed to cause the apprehension of such alien enemies as in the judgment of each are subject to apprehension or deportation under such regulations. In carrying out such regulations within the continental United States, Puerto Rico, the Virgin Islands and Alaska, the Attorney General is authorized to utilize such agents, agencies, officers and departments of the United States and of the several states, territories, dependencies and municipalities thereof and of the District of Columbia as he may select for the purpose. Similarly the Secretary of War in carrying out such regulations in the Canal Zone, the Hawaiian Islands and the Philippine Islands is authorized to use such agents, agencies, officers and departments of the United States and of the territories, dependencies and municipalities thereof as he may select for the purpose. All such agents, agencies, officers and departments are hereby granted full authority for all acts done by them in the execution of such regulations when acting by direction of the Attorney General or the Secretary of War, as the case may be.

REGULATIONS

And, pursuant to the authority vested in me, I hereby declare and establish the following regulations which I find necessary in the premises and for the public safety:

(1) No alien enemy shall enter or be found within the Canal Zone and no alien enemy shall enter or leave the Hawaiian Islands or the Philippine Islands except under such regulations as the Secretary of War shall from time to

time prescribe. Any alien enemy found in the Canal Zone, the Hawaiian Islands, or the Philippine Islands in violation of any such regulations and any alien enemy who enters or is found within any restricted area to be hereafter prescribed by the Military Commanders of each such territory in the Canal Zone, the Hawaiian Islands, and the Philippine Islands, may be immediately apprehended by authority of the Military Governors in each such territory, or if there be no Military Governor, then by authority of the Secretary of War, and detained until it is determined, under the regulations to be prescribed by the Secretary of War, whether any such alien enemy should be permanently interned following which such alien enemy shall either be released, released on bond, or permanently interned, as the case may be.

(2) ~~The exercise of the power to prescribe restricted areas and the power of arrest, detention and internment of alien enemies in the Canal Zone, the Hawaiian Islands or the Philippine Islands shall be under the jurisdiction of the Military Commanders of each such territory, each acting under such regulations as the Secretary of War shall hereafter prescribe.~~

(3) No alien enemy shall enter or leave Alaska, Puerto Rico or the Virgin Islands except under such regulations as the Attorney General shall from time to time prescribe. Any alien enemy found in Alaska, Puerto Rico or the Virgin Islands in violation of any such regulations and any alien enemy who enters or is found within any restricted area to be hereafter prescribed by the Military Commanders of each such territory in Alaska, Puerto Rico and by the Naval Commander in the Virgin Islands, shall be immediately apprehended by the authority of the Attorney General acting through the United States Attorney in each such territory and detained until it is determined, under the regulations to be prescribed by the Attorney General, whether any such alien enemy shall either be released, released on bond, or permanently interned, as the case may be.

(4) The Military Commanders in Alaska and Puerto Rico and the Naval Commander in the Virgin Islands shall

have the power to prescribe restricted areas.

(5) No alien enemy shall have in his possession, custody or control at any time or place or use or operate any of the following enumerated articles:

- a. Firearms.
- b. Weapons or implements of war or component parts thereof.
- c. Ammunition.
- d. Bombs.
- e. Explosives or material used in the manufacture of explosives.
- f. Short-wave radio receiving sets.
- g. Transmitting sets.
- h. Signal devices.
- i. Codes or ciphers.
- j. Cameras.
- k. Papers, documents or books in which there may be invisible writing; photograph, sketch, picture, drawing, map or graphical representation of any military or naval installations or equipment or of any arms, ammunition, implements of war, device or thing used or intended to be used in the combat equipment of the land or naval forces of the United States or of any military or naval post, camp or station.

All such property found in the possession of any alien enemy in violation of the foregoing regulations shall be subject to seizure and forfeiture.

(6) No alien enemy shall undertake any air flight or ascend into the air in any airplane, aircraft or balloon of any sort whether owned governmentally, commercially or privately, except that travel by an alien enemy in an airplane or aircraft may be authorized by the Attorney General, or his representative, or the Secretary of War, or his representative, in their respective jurisdictions, under such regulations as they shall prescribe.

(7) Alien enemies deemed dangerous to the public peace or safety of the United States by the Attorney General or the Secretary of War, as the case may be, are subject to summary apprehension. Such apprehension shall be made in the continental United States, Alaska, Puerto Rico and the Virgin Islands by such duly authorized officer of the Department of Justice as the Attorney General may determine. In the Canal

Zone, the Hawaiian Islands and the Philippine Islands, such arrests shall be made by the Military Commanders in each such territory by authority of the respective Military Governors thereof, and if there be no Military Governor, then by authority of the Secretary of War. Alien enemies arrested shall be subject to confinement in such place of detention as may be directed by the officers responsible for the execution of these regulations and for the arrest, detention and internment of alien enemies in each case, or in such other places of detention as may be directed from time to time by the Attorney General, with respect to continental United States, Alaska, Puerto Rico and the Virgin Islands, and by the Secretary of War with respect to the Canal Zone, the Hawaiian Islands and the Philippine Islands, and there confined until he shall have received such permit as the Attorney General or the Secretary of War with respect to the Canal Zone, the Hawaiian Islands and the Philippine Islands shall prescribe.

(8) No alien enemy shall land in, enter or leave or attempt to land in, enter or leave the United States, except under the regulations prescribed by the President in his Proclamation dated November 14, 1941, and the regulations promulgated thereunder or any proclamation or regulation promulgated hereafter.

(9) Whenever the Attorney General of the United States, with respect to the continental United States, Alaska, Puerto Rico and the Virgin Islands, or the Secretary of War, with respect to the Canal Zone, the Hawaiian Islands, and the Philippine Islands, deems it to be necessary, for the public safety and protection, to exclude alien enemies from a designated area, surrounding any fort, camp, arsenal, airport, landing field, aircraft station, electric or other power plant, hydroelectric dam, government naval vessel, navy yard, pier, dock, dry dock, or any factory, foundry, plant, workshop, storage yard, or warehouse for the manufacture of munitions or implements of war or any thing of any kind, nature or description for the use of the Army, the Navy or any country allied or associated with the United States, or in any wise connected with the national

defense of the United States, or from any locality in which residence by an alien enemy shall be found to constitute a danger to the public peace and safety of the United States or from a designated area surrounding any canal or any wharf, pier, dock or dry dock used by ships or vessels of any designated tonnage engaged in foreign or domestic trade, or of any warehouse, shed, elevator, railroad terminal, depot or yard or other terminal, storage or transfer facility, then no alien enemy shall be found within such area or the immediate vicinity thereof. Any alien enemy found within any such area or the immediate vicinity thereof prescribed by the Attorney General or the Secretary of War, as the case may be, pursuant to these regulations, shall be subject to summary apprehension and to be dealt with as hereinabove prescribed.

(10) With respect to the continental United States, Alaska, Puerto Rico, and the Virgin Islands, an alien enemy shall not change his place of abode or occupation or otherwise travel or move from place to place without full compliance with any such regulations as the Attorney General of the United States may, from time to time, make and declare; and the Attorney General is hereby authorized to make and declare, from time to time, such regulations concerning the movements of alien enemies within the continental United States, Alaska, Puerto Rico and the Virgin Islands, as he may deem necessary in the premises and for the public safety.

(11) With respect to the Canal Zone, the Hawaiian Islands and the Philippine Islands, an alien enemy shall not change his place of abode or occupation or otherwise travel or move from place to place without full compliance with any such regulations as the Secretary of War may, from time to time, make and declare; and the Secretary of War is hereby authorized to make and declare, from time to time, such regulations concerning the movements of alien enemies within the Canal Zone, the Hawaiian Islands, and the Philippine Islands as he may deem necessary in the premises and for the public safety.

(12) No alien enemy shall enter or be found in or upon any highway, water-

way, airway, railway, railroad, subway, public utility, building, place or thing not open and accessible to the public generally, and not generally used by the public.

(13) No alien enemy shall be a member or an officer of, or affiliated with, any organization, group or assembly hereafter designated by the Attorney General, nor shall any alien enemy advocate, defend or subscribe to the acts, principles or policies thereof, attend any meetings, conventions or gatherings thereof or possess or distribute any literature, propaganda or other writings or productions thereof.

This proclamation and the regulations herein contained shall extend and apply to all land and water, continental or insular, in any way within the jurisdiction of the United States.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the seal of the United States of America to be affixed.

DONE at the City of Washington this 7th day of December, in the year of our Lord nineteen hundred and [SEAL] forty-one, and of the Independence of the United States of America the one hundred and sixty-sixth.

FRANKLIN D ROOSEVELT

By the President:

CORDELL HULL

Secretary of State.

PROCLAMATION 2526

[ALIEN ENEMIES—GERMAN]

AUTHORITY

WHEREAS it is provided by section 21 of title 50 of the United States Code as follows:

"Whenever there is a declared war between the United States and any foreign nation or government, or any invasion or predatory incursion is perpetrated, attempted, or threatened against the territory of the United States by any foreign nation or government, and the President makes public proclamation of the event, all natives, citizens, denizens, or subjects of the hostile nation or government, being of the age of fourteen years and

upward, who shall be within the United States and not actually naturalized, shall be liable to be apprehended, restrained, secured, and removed as alien enemies. The President is authorized in any such event, by his proclamation thereof, or other public act, to direct the conduct to be observed, on the part of the United States, toward the aliens who become so liable; the manner and degree of the restraint to which they shall be subject and in what cases, and upon what security their residence shall be permitted, and to provide for the removal of those who, not being permitted to reside within the United States, refuse or neglect to depart therefrom; and to establish any other regulations which are found necessary in the premises and for the public safety."

AND WHEREAS by sections 22, 23 and 24 of title 50 of the United States Code further provision is made relative to alien enemies:

PROCLAMATION

NOW, THEREFORE, I, FRANKLIN D. ROOSEVELT, as PRESIDENT of the United States and as Commander in Chief of the Army and Navy of the United States, do hereby make public proclamation to all whom it may concern that an invasion or predatory incursion is threatened upon the territory of the United States by Germany.

CONDUCT TO BE OBSERVED BY ALIEN ENEMIES

And, acting under and by virtue of the authority vested in me by the Constitution of the United States and the said sections of the United States Code, I do hereby further proclaim and direct that the conduct to be observed on the part of the United States toward all natives, citizens, denizens or subjects of Germany being of the age of fourteen years and upwards who shall be within the United States or within any territories in any way subject to the jurisdiction of the United States and not actually naturalized, who for the purpose of this Proclamation and under such sections of the United States Code are termed alien enemies, shall be as follows:

All alien enemies are enjoined to preserve the peace towards the United States and to refrain from crime against the public safety, and from violating the laws of the United States and of the States and Territories thereof; and to refrain from actual hostility or giving information, aid or comfort to the enemies of the United States or interfering by word or

deed with the defense of the United States or the political processes and public opinions thereof; and to comply strictly with the regulations which are hereby or which may be from time to time promulgated by the President.

All alien enemies shall be liable to restraint, or to give security, or to remove and depart from the United States in the manner prescribed by sections 23 and 24 of title 50 of the United States Code, and as prescribed in the regulations duly promulgated by the President.

DUTIES AND AUTHORITY OF THE ATTORNEY GENERAL AND THE SECRETARY OF WAR

And, pursuant to the authority vested in me, I hereby charge the Attorney General with the duty of executing all the regulations hereinafter prescribed regarding the conduct of alien enemies within continental United States, Puerto Rico, the Virgin Islands and Alaska, and the Secretary of War with the duty of executing the regulations which are hereinafter adopted regarding the conduct of alien enemies in the Canal Zone, the Hawaiian Islands and the Philippine Islands. Each of them is specifically directed to cause the apprehension of such alien enemies as in the judgment of each are subject to apprehension or deportation under such regulations. In carrying out such regulations within the continental United States, Puerto Rico, the Virgin Islands and Alaska, the Attorney General is authorized to utilize such agents, agencies, officers and departments of the United States and of the several states, territories, dependencies and municipalities thereof and of the District of Columbia as he may select for the purpose. Similarly the Secretary of War in carrying out such regulations in the Canal Zone, the Hawaiian Islands and the Philippine Islands is authorized to use such agents, agencies, officers and departments of the United States and of the territories, dependencies and municipalities thereof as he may select for the purpose. All such agents, agencies, officers and departments are hereby granted full authority for all acts done by them in the execution of such regulations when acting by direction of the Attorney General or the Secretary of War, as the case may be.

ties their facilities for aiding in the enforcement of these regulations.

The Secretary of the Navy shall be charged with the publication and enforcement of these regulations.

FRANKLIN D ROOSEVELT

THE WHITE HOUSE,

December 11, 1941.

EXECUTIVE ORDER 8971

AUTHORIZING THE DIRECTOR OF SELECTIVE SERVICE TO PROVIDE FOR THE PHYSICAL REHABILITATION OF REGISTRANTS FOR TRAINING AND SERVICE IN THE ARMED FORCES OF THE UNITED STATES

By virtue of the authority vested in me by the Selective Training and Service Act of 1940 (54 Stat. 885), as amended, it is hereby ordered that the Director of Selective Service be, and he is hereby, authorized to plan, establish, and carry on a program having as its purpose the physical rehabilitation of registrants for training and service in the armed forces of the United States.

In order to carry out this purpose, the Director of Selective Service is hereby further authorized:

(1) To prescribe such rules and regulations, including changes and amendments to Selective Service Regulations, as he shall deem necessary.

(2) To issue such public notices, orders, and instructions as he shall deem necessary.

(3) To obligate such funds as may be specifically appropriated or allocated for this purpose and funds appropriated generally for the operation and maintenance of the Selective Service System.

(4) To perform, delegate, or provide for delegation of any duties, functions, and powers necessary in carrying out the purposes of this order to such officers, agents, or persons as he may designate, and in this connection to utilize so far as may be practicable any available Federal facilities.

FRANKLIN D ROOSEVELT

THE WHITE HOUSE,

December 12, 1941.

EXECUTIVE ORDER 8972

AUTHORIZING THE SECRETARY OF WAR AND THE SECRETARY OF THE NAVY TO ESTABLISH AND MAINTAIN MILITARY GUARD AND PATROLS, AND TO TAKE OTHER APPROPRIATE MEASURES, TO PROTECT CERTAIN NATIONAL-DEFENSE MATERIAL, PREMISES, AND UTILITIES FROM INJURY OR DESTRUCTION

WHEREAS the United States is now at war; and

WHEREAS there exists a serious and immediate potential danger of sabotage to national-defense material, national-defense premises, and national-defense utilities which may menace our maximum productive effort; and

WHEREAS the Congress of the United States has in recent enactments recognized this danger by enjoining efforts to injure, interfere with, or obstruct the national defense, and providing severe penalties therefor; and

WHEREAS it is considered necessary in the interests of national defense that, in particular situations where hazardous, dangerous, or other unfavorable conditions may from time to time exist, special precautionary measures be taken by establishing and maintaining military guards and patrols or other appropriate means to protect from injury or destruction national-defense material, national-defense premises, and national-defense utilities:

NOW, THEREFORE, by virtue of the authority vested in me as President of the United States, and Commander-in-Chief of the Army and Navy of the United States, I hereby authorize and direct the Secretary of War, whenever he deems such action to be necessary or desirable, and the Secretary of the Navy, whenever he deems such action to be necessary or desirable, to establish and maintain military guards and patrols, and to take other appropriate measures, to protect from injury or destruction national-defense material, national-defense premises, and national-defense utilities, as defined in the act of April 20, 1918, 40 Stat. 533, as amended by the act of November 30, 1940, 54 Stat. 1220, and the act of August 21, 1941, 55 Stat. 655.

This order shall not be construed as limiting or modifying the duty and responsibility of the Federal Bureau of Investigation, Department of Justice, with respect to the investigation of alleged acts of sabotage.

FRANKLIN D ROOSEVELT

THE WHITE HOUSE,

December 12, 1941.

EXECUTIVE ORDER 8973

TRANSFER OF EMPLOYEES POSSESSING QUALIFICATIONS FOR NATIONAL-DEFENSE WORK

WHEREAS there exists a critical shortage of persons qualified in certain occupations and professions essential to the successful prosecution of the national-defense program; and

WHEREAS there are in the executive branch of the Government employees possessing skills and qualifications in such occupations and professions who are employed in positions in which they can be replaced:

NOW, THEREFORE, by virtue of the authority vested in me by the Civil Service Act (22 Stat. 403) and by section 1753 of the Revised Statutes of the United States (U.S.C., title 5, sec. 631), it is hereby ordered that whenever the Civil Service Commission shall find (a) that there is employed in the executive civil service of the United States any person who is qualified to perform work directly connected with the national-defense program for which there is a critical shortage of qualified persons, and (b) that the position occupied by such person can be filled, the head of the department or agency concerned shall be requested by the Commission to authorize the release of such person for transfer to a public or private agency to perform work directly connected with the national-defense program; but no transfer under this order shall be made without the consent of the head of the department and of the employee concerned.

Any person, except one holding a temporary position, transferred under this order whose services are subsequently terminated without prejudice shall be entitled to reemployment benefits as stated below provided that he is still qualified to perform the duties of

his position and that he makes application for reinstatement within forty days after the termination of his services or forty days after the present national emergency shall have ceased to exist:

1. He shall be reinstated within thirty days of his application in the same department or agency, and in approximately the same locality, in his former position or in a position of like seniority, status, and pay, provided that such a position then exists.

2. If such a position does not exist, and such person is therefore not reinstated within thirty days of his application, his name shall be entered on the Reemployment List established pursuant to Executive Order No. 5924 of September 20, 1932, to be considered for certification to positions for which he is qualified elsewhere in the Government service.

3. No employee reinstated under this order shall be discharged from such position without cause within one year after his reinstatement.

FRANKLIN D ROOSEVELT

THE WHITE HOUSE,

December 12, 1941.

EXECUTIVE ORDER 8974

CONTROL OF CIVIL AVIATION

By virtue of the authority vested in me by section 1 of the act of August 29, 1916, 39 Stat. 645 (U.S.C., title 10, sec. 1361), and as President of the United States, it is hereby ordered as follows:

1. In the administration of the statutes relating to civil aviation the Secretary of Commerce is directed to exercise his control and jurisdiction over civil aviation in accordance with requirements for the successful prosecution of the war, as may be requested by the Secretary of War.

2. The Secretary of War is authorized and directed to take possession and assume control of any civil aviation system, or systems, or any part thereof, to the extent necessary for the successful prosecution of the war.

FRANKLIN D ROOSEVELT

THE WHITE HOUSE,

December 13, 1941.

the Civil Service Act (22 Stat. 404), it is hereby ordered as follows:

1. The United States Civil Service Commission is authorized to adopt and prescribe such special procedures and regulations as it may determine to be necessary in connection with the recruitment, placement, and changes in status of personnel for all departments, independent establishments, and other Federal agencies, except positions in the field service of the postal establishment. The procedures and regulations thus adopted and prescribed shall be binding with respect to all positions affected thereby which are subject to the provisions of the Civil Service Act and Rules.

2. Persons appointed solely by reason of any special procedures adopted under authority of this order to positions subject to the provisions of the Civil Service Act and Rules shall not thereby acquire a classified (competitive) civil-service status, but, in the discretion of the Civil Service Commission, may be retained for the duration of the war and for six months thereafter.

FRANKLIN D ROOSEVELT

THE WHITE HOUSE,

February 16, 1942.

EXECUTIVE ORDER 9064

AUTHORIZING THE GOVERNOR OF THE PANAMA CANAL TO FURNISH CERTAIN TRANSPORTATION TO PERSONS ENGAGED FOR SERVICE ON THE ISTHMUS OF PANAMA

By virtue of the authority vested in me by section 81 of title 2 of the Canal Zone Code, as amended by section 3 of the act of July 9, 1937, c. 470, 50 Stat. 487, it is hereby ordered as follows:

1. Notwithstanding the provisions of paragraph 3 of Executive Order No. 1888 of February 2, 1914, relating to conditions of employment in the Panama Canal service, the Governor of The Panama Canal is authorized (1) to furnish free transportation, or to make reimbursement of cost thereof, from any point within the continental United States to the port of departure for the Isthmus of Panama, to any person engaged for service with The Panama Canal on the Isthmus; (2) to furnish free transportation from the port of departure to the Isthmus; and (3) to pay to such person a subsistence allowance

not in excess of six dollars a day while en route to the port of departure and awaiting transportation therefrom.

2. The Governor of The Panama Canal may prescribe such regulations as may be necessary to carry out the provisions of this order.

3. This order shall be effective as of February 1, 1942, and shall remain in force during the continuance of the present war and for six months after the termination thereof.

FRANKLIN D ROOSEVELT

THE WHITE HOUSE,

February 16, 1942.

EXECUTIVE ORDER 9065

AMENDMENT OF SECTION 11 OF THE REGULATIONS GOVERNING HIGHWAYS, VEHICLES, AND VEHICULAR TRAFFIC IN THE CANAL ZONE

By virtue of the authority vested in me by sections 5 and 321 of title 2 of the Canal Zone Code, it is ordered that section 11 of Executive Order No. 7242 of December 6, 1935, prescribing regulations governing highways, vehicles, and vehicular traffic in the Canal Zone, be, and it is hereby, amended to read as follows:

SEC. 11. *Governor authorized to make regulations.* The Governor is hereby authorized to make, alter, and amend, from time to time, rules and regulations for the purpose of carrying out the provisions of this order, and in time of war in which the United States is engaged or when in the opinion of the Governor war is imminent, the Governor is hereby authorized, subject to the provisions of Executive Order No. 8232 of September 5, 1939, to amend, modify, supplement, or suspend this order, or any provision thereof, for the duration of any such period, when in his judgment such action is necessary in the public interest.

FRANKLIN D ROOSEVELT

THE WHITE HOUSE,

February 17, 1942.

EXECUTIVE ORDER 9066

AUTHORIZING THE SECRETARY OF WAR TO PRESCRIBE MILITARY AREAS

WHEREAS the successful prosecution of the war requires every possible protection against espionage and against

sabotage to national-defense material, national-defense premises, and national-defense utilities as defined in Section 4, Act of April 20, 1918, 40 Stat. 533, as amended by the Act of November 30, 1940, 54 Stat. 1220, and the Act of August 21, 1941, 55 Stat. 655 (U.S.C., Title 50, Sec. 104):

NOW, THEREFORE, by virtue of the authority vested in me as President of the United States, and Commander in Chief of the Army and Navy, I hereby authorize and direct the Secretary of War, and the Military Commanders whom he may from time to time designate, whenever he or any designated Commander deems such action necessary or desirable, to prescribe military areas in such places and of such extent as he or the appropriate Military Commander may determine, from which any or all persons may be excluded, and with respect to which, the right of any person to enter, remain in, or leave shall be subject to whatever restrictions the Secretary of War or the appropriate Military Commander may impose in his discretion. The Secretary of War is hereby authorized to provide for residents of any such area who are excluded therefrom, such transportation, food, shelter, and other accommodations as may be necessary, in the judgment of the Secretary of War or the said Military Commander, and until other arrangements are made, to accomplish the purpose of this order. The designation of military areas in any region or locality shall supersede designations of prohibited and restricted areas by the Attorney General under the Proclamations of December 7 and 8, 1941, and shall supersede the responsibility and authority of the Attorney General under the said Proclamations in respect of such prohibited and restricted areas.

I hereby further authorize and direct the Secretary of War and the said Military Commanders to take such other steps as he or the appropriate Military Commander may deem advisable to enforce compliance with the restrictions applicable to each Military area herein above authorized to be designated, including the use of Federal troops and other Federal Agencies, with authority to accept assistance of state and local agencies.

I hereby further authorize and direct all Executive Departments, independent establishments and other Federal Agen-

cies, to assist the Secretary of War or the said Military Commanders in carrying out this Executive Order, including the furnishing of medical aid, hospitalization, food, clothing, transportation, use of land, shelter, and other supplies, equipment, utilities, facilities, and services.

This order shall not be construed as modifying or limiting in any way the authority heretofore granted under Executive Order No. 8972, dated December 12, 1941, nor shall it be construed as limiting or modifying the duty and responsibility of the Federal Bureau of Investigation, with respect to the investigation of alleged acts of sabotage or the duty and responsibility of the Attorney General and the Department of Justice under the Proclamations of December 7 and 8, 1941, prescribing regulations for the conduct and control of alien enemies, except as such duty and responsibility is superseded by the designation of military areas hereunder.

FRANKLIN D ROOSEVELT

THE WHITE HOUSE,

February 19, 1942.

EXECUTIVE ORDER 9067

PROVIDING FOR THE TRANSFER OF PERSONNEL TO WAR AGENCIES

By virtue of the authority vested in me by the Civil Service Act (22 Stat. 403), and by Section 1753 of the Revised Statutes of the United States (U.S.C., title 5, sec. 631), and in order to expedite the transfer of personnel to war agencies, it is hereby ordered as follows:

1. For the purpose of facilitating transfers of employees under the provisions of this Order, the Director of the Bureau of the Budget shall from time to time establish priority classifications of the several Executive departments and agencies, or of parts or activities thereof, in respect to their relative importance to the war program, and such classifications shall be controlling as to transfers under the provisions of this Order.

2. The Civil Service Commission is authorized to secure information as to employees of Executive departments and agencies who are deemed competent to perform essential war work in departments or agencies having a higher priority classification, and, with the consent

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4/22

GUIDE TO THE
NATIONAL ARCHIVES
OF THE
UNITED STATES

NEW PREFACE BY FRANK B. EVANS

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION
WASHINGTON, DC
1987

orders and regulations, 1941-47; reports, special studies, and reference files; applications for certificates of necessity, nonreimbursement, and protection; records of the WPB Appeals Board, 1942-47, including case files and summary card records; correspondence of the Office of General Counsel, 1941-46; WPB manpower survey reports and budget estimates, 1943-44; an office procedures file, 1942-46; records regarding protection of defense plants and railroad bridges and tunnels, 1942-47; and press releases, 1940-47.

RECORDS OF THE COMBINED RAW MATERIALS BOARD. 1942-46. 158 lin. ft.

Following the attack on Pearl Harbor, meetings were held between interested agencies of the United Kingdom and the United States concerned with coordinating control of raw materials at the international level, and a joint public statement of January 26, 1942, announced the creation of the Combined Raw Materials Board (CRMB). The CRMB was to plan the best and fastest method of developing, expanding, and using raw materials controlled by the two countries; formulate plans and make recommendations to their respective agencies; and collaborate with other United Nations members to ensure effective deployment of raw materials. The CRMB held its final meeting in December 1945.

The records consist of minutes, decisions and recommendations, reports, general correspondence, cables, and publications; agenda, minutes, and decisions of the Advisory Operating Committee and the Committee on Fertilizer, 1942-45; records of the Office of the Executive Secretary relating chiefly to liberated areas, 1942-45; and correspondence of staff officers and analysts, 1942-46.

RECORDS OF THE COMBINED PRODUCTION AND RESOURCES BOARD. 1942-47. 221 lin. ft.

The Combined Production and Resources Board (CPRB) was established in June 1942 by a memorandum dated June 9, 1942, from President Roosevelt to Donald Nelson of the WPB "to complete the organization for the most effective use of the combined resources of the United States and the United Kingdom for the prosecution of the War." The United States and the United Kingdom were represented on the CPRB by the Chairman of the WPB and the Minister of Production, respectively.

On November 10, 1942, by agreement of President Roosevelt and the Prime Ministers of Great Britain and Canada, the CPRB was expanded to include a Canadian member. India and France became members of the CPRB Textile Committee, but did not have representation on the CPRB itself; the U.S.S.R. was never included. The CPRB was terminated December 31, 1945, and five international committees were constituted to allocate commodities still in short supply. These committees, which became operative January 1, 1946, were the Combined Rubber Committee, the Combined Coal Committee, the Combined Textile Committee, the Combined Tin Committee, and the Combined Hides, Skins, and Leather Committee.

The records consist of agenda for meetings, minutes, directives, issuances, general correspondence, and a master file of cables received and sent, 1942-45; records relating to the allocation of materials to liberated areas and to programs conducted by the Combined Civil Affairs Committee and the United Nations Relief and Rehabilitation Administration, 1944-45; and records of the Executive Officer, 1944-45, the CPRB Registry, 1942-45, the statistical officer, 1943-45, the public relations officer, 1944-45, the director of research and statistics, 1943-45, and the Office of the

Special Assistant, 1942-45. Also included are minutes, agenda, and other records of committee meetings, 1942-45; and the final report, minutes, and correspondence of the Conference on the Unification of Engineering Standards, 1943-45. Other records include general correspondence of the office of William L. Batt, U.S. deputy member of the CPRB, 1940-46; and records of the postwar international commodity committees, 1945-47.

CARTOGRAPHIC AND AUDIOVISUAL RECORDS. 1940-45. 1,740 items.

Maps (2 items) of the United States, overprinted to show locations of munitions plants, June and October 1941; and a map of the United States, showing regional boundaries of the WPB, 1942.

Pictorial records, 1942-45 (1,602 items), consist of original posters used in production drives initiated by the WPB, and lantern slides used in training staff members and industrial employees engaged in war production.

Motion pictures, 1940-44 (15 reels), produced to stimulate war production,

and showing military action in several theaters, Allied and Axis military and political leaders, and the manufacture, transportation, repair, and destruction of war materiel. There are also films showing good telephone manners.

Sound recordings, 1942-45 (120 items), of radio broadcasts, consisting of dramatizations, speeches, interviews, and entertainment featuring, among others, Eleanor Roosevelt, Donald M. Nelson, Joseph C. Grew, Frank Knox, Leon Henderson, and a number of writers, actors, and actresses. Included are broadcasts of "Men, Machines and Victory," "You Can't Do Business With Hitler," and "Fibber McGee and Molly." There are also records used in training mail and messenger service personnel, secretaries, and switchboard operators.

Microfilm Publications: *Press Releases of the Advisory Commission to the Council of National Defense, June 3, 1940-January 15, 1941*, M185, 1 roll, DP; *Progress Reports of the Advisory Commission to the Council of National Defense, July 24, 1940-May 28, 1941*, M186, 1 roll, DP; and *Numbered Document File of the Advisory Commission to the Council of National Defense, 1940-1941*, M187, 2 rolls, DP.

RECORDS OF THE WAR RELOCATION AUTHORITY (RECORD GROUP 210)

The War Relocation Authority (WRA) was established in the Office for Emergency Management by Executive Order 9102 of March 18, 1942, to provide for the removal, relocation, maintenance, and supervision of persons excluded from strategic military zones. Initial assembling of evacuees had been undertaken by the Wartime Civil Control Administration (WCCA), organized March 11, 1942, by the Army's Western Defense Command. Although the primary function of the WRA was to assist persons of Japanese ancestry who had been evacuated from the west coast by

military order, the agency was also responsible for the relocation of other persons, particularly German and Italian aliens excluded from sensitive military areas. Approximately 110,000 persons of Japanese ancestry were resettled in 10 relocation centers, where a variety of economic activities for self-support were maintained. Regional offices provided field supervision in establishing, staffing, and supplying the relocation centers, and district offices aided evacuees who worked or resided outside relocation centers. The WRA was transferred in February 1944 to the Department of

the Interior. In June 1944 the President directed the WRA to operate, under policies formulated by the War Refugee Board (WRB), a shelter at Fort Ontario, Oswego, N.Y., for European refugees. In June 1945 responsibility for administration of the refugee shelter was transferred to the Interior Department. In December 1944 the west coast general exclusion order was revoked, and the Supreme Court ruled certain of the detention features of the relocation program unconstitutional. Thereafter the WRA largely engaged in the resettlement of evacuees. The agency was terminated by Executive Order 9742 of June 25, 1946, and responsibility for the liquidation of its affairs was assigned to the War Agency Liquidation Unit of the Department of the Interior.

There are 2,990 cubic feet of records dated between 1941 and 1947 in this record group.

HEADQUARTERS RECORDS.

1941-47. 3,458 lin. ft.

WRA headquarters comprised the offices of the Director and the Solicitor, and the Administrative Management, Reports, Relocation Planning, Relocation, Operations, Community Management, and War Refugee Divisions. The records consist of general and topical final reports, 1946; and basic documentation material, 1941-46 (from the files of headquarters divisions and field units), including minutes, reports, correspondence, memorandums, surveys, statistical materials, administrative and informational issuances, budgetary materials, forms, radio scripts, newspaper clippings, and histories. They relate to resettlement of evacuees; attitudes of evacuees, refugees, and the general public to WRA installations and programs; the establishment and operation of field units and offices; and activities and conditions in assembly centers (operated by the WCCA), relocation centers, area relocation offices, and the Fort Ontario emergency refugee shelter. There are

also serial sets of WRA issuances, 1942-45, and nonserial WRA issuances, 1942-46; reference files of issuances of other agencies of the Federal Government, State and local governments, and private institutions, organizations, and individuals, 1942-46; magazine articles, with indexes, 1942-46; newsletters relating to Japanese-American evacuees, 1942-46; and Japanese-American newspapers, 1942-47.

General files consist of subject-classified files relating to WRA organization, functions, policies, procedures, and operations, 1942-46. Evacuee and "excluee" case files, 1942-46 (in WNRC), include personal history, health, property, occupation, leave, and school records, and related correspondence from files of field offices, relocation centers, and the Statistics Section of the Relocation Planning Division; IBM punch cards ("locator index"), 1942-46, of summary personal data about individual evacuees; an index, 1942-46, with data about evacuees under WRA jurisdiction who were confined to institutions; lists of evacuees transferred from or assigned to the Tule Lake segregation center, 1943-44; and individual exclusion case files, 1942-45, containing personal history data, material documenting property disposition and WRA assistance grants, copies of exclusion orders and notices of suspension of such orders, and related administrative reports and correspondence about persons other than those of Japanese descent excluded from military areas.

Other records include statistical reports on the population of relocation centers and the refugee shelter, 1942-46; the WRA administrative manual stating policies and procedures for WRA activities, with an index to revisions; supplementary handbooks; operations and administrative forms used by WRA; headquarters account control ledgers, 1943-46; and job descriptions of WRA headquarters and field positions, 1942-46.

FIELD RECORDS. 1942-46.

344 lin. ft.

Records of regional and field assistant directors' offices, San Francisco, consist of subject-classified general files and a file of outgoing correspondence, 1942, subject-classified general files of the field assistant director, 1942-46, and press digests, April-December 1942 and July 1944-January 1946.

Records of the Evacuee Property Division consist of subject-classified general files, 1942-45; inventory cards containing such information about evacuee-owned real property as type of use, identification of legal owner, location, size, structures, assessed value, and legal description; and inventories of property confiscated from evacuees and stored by WRA, 1944.

Records of relocation offices, 1943-46, comprise subject-classified general files, consolidated after WRA's termination.

Records of relocation centers consist of subject-classified general files for each of the 10 centers, 1942-46, cards for evacuees containing data about members of family units, 1942-46, final accountability rosters of evacuees, 1944-46, internal security case reports with related indexes, 1942-46, drawings and specifications, 1942-44, and fixed property inventories, 1942-47.

Records of the emergency refugee shelter, Fort Ontario, Oswego, N.Y., consist of subject-classified general files, 1944-46; and refugee case files, 1944-46, including, for individual refugees, applications for admission to the shelter, identification charts, photographs, biographical data, social case studies, health reports and employment data with related correspondence, interrogation reports, and supplementary information.

RECORDS OF OTHER AGENCIES.

1942-47. 2 lin. ft. and 60 rolls of microfilm.

Records of the Wartime Civil Control Administration consist of microfilm copies of voluntary evacuee change-of-residence cards, 1942; a master index of evacuees, containing personal data about individuals, 1942-43; social data registration forms, summary tabulations, and vital statistics, 1942; and photostatic copies of WCCA-WRA lists of persons transferred from assembly centers to relocation centers, 1942. Records of the War Refugee Board include correspondence, reports, statements, Executive orders, and publicity material documenting the origin of the program for establishment of emergency refugee shelters in the United States and the policies governing the Fort Ontario shelter, 1944-45. Records of the War Agency Liquidation Unit of the Interior Department consist of files relating to a study of the resettlement of evacuees and office files of the director of the study, 1946-47.

AUDIOVISUAL RECORDS. 1942-45.
12,632 items.

There are photographs (12,600 items) of Japanese property before evacuation; WRA evacuation activities; housing, vocation, education, and recreation facilities at relocation centers; and the emergency refugee shelter for displaced Europeans at Fort Ontario, Oswego, N.Y. There are also motion pictures (4 reels) of WRA activities and the training and accomplishments of nisei soldiers in World War II, and sound recordings (28 items) of radio broadcasts concerning WRA activities and accomplishments of nisei soldiers.

See Estelle Rebec and Martin Rogin, comps., *Preliminary Inventory of the Records of the War Relocation Authority*, P1 77 (1955).



JAPANESE-AMERICAN INTERNMENT IN WORLD WAR II--THE ISSUE OF REDRESS

The question of making compensation to the 120,000 Japanese-Americans who were interned during World War II was answered by the passage of legislation (P.L.100-383) to implement recommendations of the Commission on Wartime Relocation and Internment of Civilians. This legislation authorizes an apology and payments of \$20,000 each to the estimated 60,000 surviving internees.

This action caps less comprehensive Federal Government efforts, extending over more than 40 years, aimed as compensating internees for losses sustained during internees' evacuation from the West Coast and relocation to camps inland. While the issue of compensation has been settled, the relocation and its justification is still an issue in contention.

This material has been prepared to give basic information on World War II internment, Government attempts at redress, the Commission on Wartime Relocation and Internment and its findings, and the most recently enacted compensation legislation. Pro/con arguments on this complex subject are also included.

We hope this material is helpful.

Congressional Reference Division



MEMORANDUM

January 14, 1992

SUBJECT : Status Of Redress Payments For Americans Of Japanese Descent

FROM : James Sayler
Specialist in American National Government
Government Division

The following information is sent in response to your request for information about the status of the redress programs on behalf of Americans of Japanese descent who were evacuated, relocated, and interned during World War II in United States internment camps.

As of January 13, 1992, the Federal Government spent \$960 million in payments to those Americans, according to the Office of Redress Administration (ORA), Civil Rights Division, Department of Justice. That sum represents the full amount that the Civil Liberties Act of 1988 authorized the Justice Department's Office to spend in the first fiscal year (1991) that the redress program went into effect, and most of the sums authorized for the second fiscal year (1992). The Act authorizes a total of \$1.25 billion for the redress payments.

According to the requirements of that Act, the oldest of those Americans are receiving their payments first. The 1988 Act directs the Justice Department to seek out Americans of Japanese descent and determine their eligibility for redress, instead of requiring those Americans to submit their claims to the Department, as had been required under the 1948 claims law.

The following page features a tabular summary of what the redress program provided as of January 13, 1992, according to the ORA. When reading the table, keep in mind that the ORA distinguishes between "cases" and "individuals" in its statistics about who is to receive payments, because of statistical complications that developed as a result of the deaths of eligible Americans of Japanese descent since August 10, 1988. On that date the Civil Liberties Act of 1988, which authorizes the redress program, went into effect.

This memorandum was prepared by the Government Division for distribution to more than one client. The facts and premises included herein are current as of the date of preparation, unless otherwise noted.

It is the date when, according to the Act, survivors of the relocation camps became eligible for redress. Many have died since that August 10th. Under the Act, payments due to eligible Japanese Americans who have died are divided among their statutory heirs; those heirs have been increasing, thereby increasing the total number of persons receiving redress payments. For example, at one point in the program Connecticut had 12 "cases" eligible for redress; payments, however, went to 17 individuals, six of them statutory heirs. The nation-wide statistics kept by the ORA reflect the number of cases, and not of eligible individuals.

REDRESS FOR AMERICANS OF JAPANESE DESCENT
January 13, 1992

Topic	Numbers (estimates)
Cases throughout the U.S. eligible for redress	75,000
Cases throughout the U.S. who have received redress	48,000
Approximate number of persons for whom redress payment checks have been cut	51,300
Sums paid for redress nationally	\$960 million

Source: Office of Redress Administration. Civil Rights Division.
 Department of Justice.

JS:js

This memorandum was prepared by the Government Division for distribution to more than one client. The facts and premises included herein are current as of the date of preparation, unless otherwise noted.

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CRS Report for Congress

Redress For Japanese Americans Under The Civil Liberties Act Of 1988: Questions And Answers

James Saylor
Specialist in American National Government
Government Division

September 28, 1990



**REDRESS FOR JAPANESE AMERICANS
UNDER THE
CIVIL LIBERTIES ACT OF 1988 (PUBLIC LAW 100-383)
QUESTIONS AND ANSWERS**

SUMMARY

The Civil Liberties Act of 1988 (Public Law 100-383) authorizes Federal redress to an estimated 65,000 surviving Americans of Japanese ancestry. They represent half of the number whom the Federal Government during World War II forcibly evacuated, relocated, and detained in internment camps. President Reagan signed the law on August 10, 1988.

The law acknowledges the fundamental injustice of the treatment of the Japanese-Americans, and apologizes to them on behalf of the people of the United States. According to the Act, the Federal Government during the War committed the injustice "without adequate security reasons and without any acts of espionage or sabotage" documented by the Commission on Wartime Relocation and Internment of Civilians. Congress established the Commission in 1980 to evaluate the extent of the tragedy and to recommend appropriate action for it. Endorsing the Commission's documentation and findings, the Act concludes that the Federal actions against Japanese Americans "were motivated largely by racial prejudice, wartime hysteria, and a failure of political leadership."

To finance redress for the evacuation, relocation, and internment of Japanese Americans, the law creates the Civil Liberties Public Education Fund. The Fund's nine-member board of directors is responsible for disbursing funds to inform the public about what happened to the Japanese Americans, to prevent such an event from happening again to any minority group. Moreover, the Fund holds the monies upon which the Attorney General draws for paying financial redress. To provide financial redress and other purposes, the law authorizes the payment of \$1.25 billion. From most of that sum, \$20,000 is to be paid to each eligible Japanese American alive on August 10, 1988, or to his or her statutory heirs. In November 1989 Congress and the President made redress payments an entitlement; the payments are due to begin on or shortly after October 1, 1990.

The Act also provides legal remedies through certain Federal reviews. One such review is for Presidential pardons to Japanese Americans convicted of violating World War II internment laws and regulations. Another provision requires each Federal Department or agency to review cases for the full restitution of any position, status, or entitlement lost by a Japanese American because of his or her evacuation, relocation, and internment during World War II.

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**REDRESS FOR JAPANESE AMERICANS
UNDER
THE CIVIL LIBERTIES ACT OF 1988 (PUBLIC LAW 100-383)
QUESTIONS AND ANSWERS**

INTRODUCTION

On August 10, 1988, the President of the United States signed into law the Civil Liberties Act of 1988, Public Law 100-383. The Act, under Title I, authorizes Federal redress of \$1.25 billion to an estimated 65,000 surviving Americans of Japanese ancestry. Under Title II, the law also authorizes approximately \$27 million to native Aleuts. In the early months of 1942, after Pearl Harbor and the United States declaration of war against Japan, the Federal Government, on short notice, forcibly interned both peoples in camps for the duration of the War. The Federal Government kept 120,000 Japanese Americans in relocation centers, in Arizona, Arkansas, California, Colorado, Idaho, Utah, and Wyoming. The Federal Government also imprisoned in southern Alaska 900 Aleuts in camps set up in old canneries. A majority of the Japanese Americans and all of the Aleuts were U.S. citizens. Almost all of the remainder of the Japanese Americans were permanent, resident aliens, prohibited from becoming citizens by racial restrictions in the then existing statutes.¹

¹The Senate on July 27, 1988, approved the Civil Liberties Act of 1988. The House of Representatives on August 4, 1988, did the same. President Ronald Reagan on August 10, 1988, signed it into Public Law 100-383 (102 Stat. 903-911). For additional information about the basis for the statistics, see "Appendix A: Notes on Sources." For a discussion of the number of camps, and their location, see: [Untitled map] Commission on Wartime Relocation and Internment of Civilians. *Personal Justice Denied*. Washington, D.C., [Govt. Print. Off.], 1982. p. xii. That map was copied from: Michi Weglyn. *Years of Infamy; The Untold Story of America's Concentration Camps*. New York, William Morrow, 1976. p. 6. See also, *ibid.*, Appendix 3, pp. 176-177. In addition, see: U.S. Army. Western Defense Command and Fourth Army. *Final Report: Japanese Evacuation From the West Coast, 1942*. Washington, D.C., Govt. Print. Off., 1943. Chapt. XIII.

The Aleut redress statistics came during a telephone conversation from a spokesperson with Senator Ted Stevens' office, September 26, 1990. Also, see U.S. Congress. House. Committee on Appropriations. Department of the Interior and Related Agencies Appropriations Bill, 1990. Report to Accompany H.R. 2788. House Report No. 101-120, 101st Cong., 1st Sess. Washington, U.S. Govt. Print. Off., 1989. p. 62. See also, Public Law 101-121 (103 Stat. 715).

In 1980 the Congress created the Commission on Wartime Relocation and Internment of Civilians to review the circumstances of the evacuation, relocation, and internment of those peoples. Congress also directed the Commission to evaluate the damage that these circumstances did to those Japanese Americans. It was the Commission that in 1982 wrote the report which made the recommendations that inspired the Civil Liberties Act. The report also serves as a congressionally-inspired history of what happened during World War II to the affected Japanese Americans and the Aleuts. In its report the Commission characterized the history of the Japanese American internment camps as one of suffering and deprivation imposed on people against whom no charges were, or could have been, brought. The Commission stated that the hearing record was "full of poignant, searing testimony that recounts the economic and personal losses and injury caused by the exclusion and the deprivations of detention." The report also maintained that "the camp experience carried a stigma that no other Americans suffered."²

The Act restates two key findings made by the Commission: that Japanese Americans, "without adequate security reasons and without any acts of espionage or sabotage documented by the Commission," were evacuated, relocated, and interned. These were actions "motivated largely by racial prejudice, wartime hysteria, and a failure of political leadership."³

The Civil Liberties Act of 1988 states that the Federal Government committed a fundamental injustice in its treatment of the Japanese Americans and Aleuts, and apologizes to them on behalf of the people of the United States. To finance the redress for Americans of Japanese ancestry, the law creates the Civil Liberties Public Education Fund. The nine members of the Fund's Board of Directors are responsible for informing the public about the evacuation, relocation, and internment, to prevent such an event from happening again. In addition, the board is responsible for disbursing funds

For the restrictions on naturalization, see Nationality Act of 1940, Sec. 303 (54 Stat. 1140).

²The quotations come from: U.S. Commission on Wartime Relocation and Internment of Civilians. *Personal Justice Denied; Report of the Commission on Wartime Relocation and Internment of Civilians*. Washington, Govt. Print. Off., December 1982. pp. 10-11.

³For the Commission's statement on the absence of legitimate reason or motive for the evacuation, relocation, and internment, see *Personal Justice Denied*. 18 For the statement from the Civil Liberties Act of 1988, see Sec. 2 (102 Stat. 903). President Carter signed into law on July 31, 1980, the bill (S 1647) that created the Commission. It became Public Law 96-317. See: Internment Commission. *Congressional Quarterly Almanac*, v. xxxvi, 1980, p. 380.

on behalf of those efforts. It is also out of the Fund that the Attorney General draws the monies for paying monetary redress.⁴

Another provision of the Civil Liberties Act of 1988 requires redress through several different legal procedures. Under one procedure the President, on the advice of the Attorney General, can pardon Japanese Americans convicted of violating World War II internment laws and regulations. Under a second procedure, each Federal Department or agency must review applications for the full restitution of any position, status, or entitlement lost by a Japanese American because of his or her evacuation, relocation, and internment during World War II. Finally, to provide financial redress, the law authorizes the payment of \$20,000 to each eligible Japanese Americans alive on August 10, 1988, or to his or her statutory heirs.

Public Law 101-162 -- which provides appropriations for the Commerce, Justice, and State Departments and related agencies during Fiscal Year 1991 -- designated the redress payments for Japanese Americans as an entitlement, obligating the Federal Government to pay the monies. It is anticipated that payments will begin in October 1990.

Following are commonly asked questions and answers about redress for Japanese Americans under the Civil Liberties Act of 1988. Roughly speaking, basic redress topics appear in the sequence maintained by the Act; individual answers are grouped so that similar topics are together. The answers that follow are designed to describe what the Act provides, but not to serve as a legal interpretation of the Act. A lawyer should be consulted for that. These questions and answers derive from the text of the Civil Liberties Act of 1988, and from a number of other sources, identified in Appendix A. The Department of Justice's "Redress Provisions for Persons of Japanese Ancestry; Final Rule" of August 10, 1989, likewise provides much information about the financial redress provision of the Act. A copy appears in Appendix C.⁵

The Justice Department's rule defines and describes the regulations under which Japanese Americans eligible for financial redress are identified and paid. The rule, however, does not mention certain other provisions of the Civil Liberties Act of 1988, because they are administered under procedures already in place. For example, pardons can be obtained for Japanese Americans convicted of breaking the laws and regulations to put and keep them in the internment camps by submitting claims to the United States Pardon Attorney, whose address appears on page 8. As for Japanese Americans seeking redress

⁴For the provisions of the law concerning the Fund, see Title I, Sec. 104 of the Civil Liberties Act of 1988 (102 Stat. 905-9).

⁵U.S. Dept. of Justice. Redress Provisions for Persons of Japanese Ancestry; Final rule. *Federal Register*, v. 54, no. 159, August 18, 1989. pp. 34157-34168. For the Aleut redress, see 102 Stat. 904, 911-916 (see Appendix B of this report for the relevant text of the statute).

for professional or governmental injuries sustained because of the internment (injuries such as a demotion, or the loss of a job or of entitlements), the Federal agency that is the object of such redress has the power to review any application of this type.

In addition, the Justice Department's rule does not discuss redress for the Aleut peoples under the Act, because it has no power to do so. The Secretary of the Interior administers the provisions for Aleut redress under Title II of the Civil Liberties Act of 1988. Incidentally, the provisions of Title II appear in the text of the Act, in Appendix B. However, no questions or answers specifically about Aleut redress appear in the main text of this report.⁶

Generally, the quickest, most practical way to get information about financial redress for Americans of Japanese ancestry is to contact the Department of Justice. To do so, write in English or Japanese to:

Robert Bratt, Administrator
Office of Redress Administration
U.S. Department of Justice
P.O. Box 66260
Washington, D.C. 20035-6260

⁶For information about the administration of the Aleut provisions of the law, contact Dimitri Philemonof, Executive Director, the Aleutian-Pribilof Island Association, Inc., 401 East Fireweed Lane, Anchorage, Alaska 99503. 1 (907) 276-2700.

PURPOSES OF THE ACT

What are the Purposes of the Act?⁷

As its first purpose the Civil Liberties Act of 1988 acknowledges that the Federal Government committed a grave injustice against Americans of Japanese ancestry, by evacuating, relocating, and interning 120,000 of them in internment camps during World War II. The injustice was done to United States citizens as well as to permanent resident aliens of Japanese ancestry, who were prohibited by Federal law from becoming American citizens.

There are several other stated purposes of the law. The Congress apologizes on behalf of the people of the United States for that treatment of Japanese Americans. Informing the public about the internment of Americans of Japanese ancestry, so as to prevent any similar event from recurring, constitutes another purpose. The Act also states that financial restitution shall be made to Americans of Japanese ancestry, and Aleuts, who were interned. And, the Act directs that -- for financing endeavors to inform the public about the internment, to prevent any such recurrence -- a Civil Liberties Public Education Fund be created. The purposes of the Act go on to include a separate statement: the law is to discourage the occurrence of injustices such as the evacuation, relocation, and internment of U.S. citizens and resident aliens of Japanese ancestry, and the Aleuts, as well as like violations of civil liberties. The last purpose of the Civil Liberties Act of 1988 is to make more credible and sincere any declaration of concern by the United States about human rights committed by other nations.

The Act follows its description of purposes by a "Statement of the Congress". In it the Act acknowledges that a grave injustice was done to citizens and permanent resident aliens of Japanese ancestry by their evacuation, relocation, and internment during World War II. Further, those actions against Japanese Americans were carried out without adequate security reasons and without any acts of espionage or sabotage documented by the Commission on Wartime Relocation and Internment of Civilians. The Act notes that the Commission made those findings. Moreover, the Act continues, those actions of the Federal Government towards Japanese

⁷Sec. 1 of the Civil Liberties Act of 1988 (102 Stat. 903). Conference report comments about the Act appear in: U.S. Congress. Committee of Conference. Civil Liberties Act. Conference Report to Accompany H.R. 442. House Report No. 100-785, 100th Cong., 2nd Sess. Washington, U.S. Govt. Print. Off., July 26, 1988. 9 p. The report also appears in: Joint Explanatory Statement of the Committee of Conference. *Congressional Record*, Daily Edition, v. 134, July 26, 1988, p. H5800.

Americans "were motivated largely by racial prejudice, wartime hysteria, and a failure of political leadership."⁸

The statement further states that the excluded individuals of Japanese ancestry suffered enormous damages, both material and intangible. Moreover, those Japanese Americans sustained 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 basic and civil liberties and the constitutional rights of these individuals of Japanese ancestry, the statement concludes, the Congress apologizes on behalf of the Nation.

⁸Civil Liberties Act of 1988, Sec. 2 (102 Stat. 903-904). Congress established the Commission on Wartime Relocation and Internment in 1980 when it enacted Public Law 96-317 (94 Stat. 964). The Law provided for reviewing whether more equitable redress to Japanese-Americans should be afforded than had been provided under Public Law 80-886 (62 Stat. 1231), enacted in 1948.

PARDONS

What remedies does the law offer for Japanese Americans convicted of certain crimes during World War II?⁹

Under the Act, the Attorney General is requested to review any case in which an American of Japanese ancestry was convicted during World War II of breaking internment laws and regulations and had been alive on August 10, 1988, when the Civil Liberties Act of 1988 became law. The President is requested to offer pardons to any Japanese American for whom the Attorney General recommends for a pardon.

The law specifies that the violations be of:

- Executive Order 9066, of February 19, 1942. The Order gave the Secretary of War the authority to establish military areas "from which any or all persons may be excluded as deemed necessary or desirable."¹⁰
- Public Law 77-503, approved March 21, 1942. "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."¹¹
- Any other Executive order, Presidential proclamation, law of the United States, or directive of the Armed Forces of the United States, put into effect to further the evacuation, relocation, or internment of individuals solely on the basis of their Japanese ancestry. The Act

⁹Joint Explanatory Statement of the Committee of Conference. *Congressional Record*, Daily Edition, v. 134, July 26, 1988, p. H5800.

¹⁰U.S. President, 1934-1945 (Roosevelt). Executive Order 9066 (Feb. 19, 1942), Authorizing the Secretary of War to Prescribe Military Areas. Code of Federal Regulations, Title 3 -- the President, 1938-1943 Compilation. Published by the Office of the Federal Register, National Archives and Records Service, General Services Administration. Washington, D.C., U.S. Govt. Print. Off., 1968. pp. 1092-1093. Also, 102 Stat. 904.

¹¹56 Stat. 173. This law, according to one authority on the subject, placed on the Justice Department, as the Federal government's law-enforcement agency, the responsibility for enforcing the military orders that through criminal prosecution enforced Executive Order 9066. See, Peter Irons. *Justice at War; the Story of the Japanese American Internment Cases*. New York, Oxford University Press, 1983, p. 68. Also, 102 Stat. 904.

specifies the nature of the violations. To be eligible for a Presidential pardon, Japanese Americans had to have been convicted of refusing to accept the regulations, laws, proclamations or directives that furthered their evacuation, relocation or internment.¹²

Whom do you see for the remedy?

The official at the Justice Department responsible for administering this provision of the law is:

David C. Stephenson
Pardon Attorney
Department of Justice
5550 Friendship Blvd.
Suite 490
Chevy Chase, MD 20815
Telephone number: (301) 492-5910

¹²The refusal had to occur during the evacuation, relocation, and internment effort. "Any other Executive order, Presidential proclamation... " include: Executive orders, Presidential proclamations, laws, directives 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 that furthered the evacuation, relocation, and internment of Japanese Americans. Also, 102 Stat. 904.

**RESTITUTION OF FEDERAL POSITION, STATUS, OR
ENTITLEMENT**

If a Japanese American lost a job, status, or any entitlement with the Federal Government because of being evacuated, relocated, and interned during World War II, can he or she apply for Federal restitution?¹³

Any such person can apply for restitution. The position, status, or entitlement must have been lost in whole or in part because of a discriminatory act, by the U.S. Government, due to an applicant's Japanese ancestry. Further, the loss must have occurred during the evacuation, relocation, and internment period, starting December 7, 1941, and ending June 30, 1946.¹⁴

The Civil Liberties Act of 1988 directs each department and agency of the Federal Government to review with liberality any application for the restitution of any position, status, or entitlement. The review must give full consideration to the findings of the Commission on Wartime Relocation and Internment of Civilians.¹⁵

Whom does an applicant contact for the remedy?¹⁶

The Civil Liberties Act of 1988 directs anyone seeking restitution to contact the personnel office of the department or agency in question.

¹³Generally, for the restitution provisions, see Title I, Sec. 103, of the Act (102 Stat. 905). In answer to this question, see Title I, Sec. 103(a) of the Act (102 Stat. 905).

¹⁴U.S. Dept. of Justice. Final rule; § 74.2(f). p. 34161.

¹⁵Title I, Sec. 103(a) of the Act (102 Stat. 905).

¹⁶Title I, Sec. 103(a)(b) of the Act (102 Stat. 905).

FINANCIAL RESTITUTION

What is the status of the redress efforts by the Justice Department?

Federal redress efforts are well underway. The Office of Redress Administration (ORA) estimates that it has identified, located and listed 95 percent or more of those eligible to receive payment.¹⁷

Of the original 120,000 Japanese Americans interned, at least 65,000 survive and are on the list the ORA since 1988 has been making of the names of those potentially eligible for redress. In the fall of 1989 the Office, in accordance with the Civil Liberties Act of 1988, began to send letters to the oldest of those potentially eligible for redress. Since then, the Office has been contacting the next oldest, and so on, the order that the law requires.¹⁸

The letters tell the recipients that they may be eligible for redress, and ask that they send documents to verify their identity. As it has found more who are potentially eligible for redress, the Office of Redress Administration has continued to add to its list. According to the ORA, even though it has put forward an extensive publicity (outreach) campaign for contacting Japanese Americans who may be eligible for redress, it has proved difficult to find a few of them. The law directs the Justice Department to locate all who are due financial redress.

Public Law 101-162, which appropriates funds for the administration of the Commerce, Justice, and State Departments and other agencies, made the redress obligation an entitlement, subject to appropriations. The entitlement is effective as of October 1, 1990 (the beginning of Fiscal Year 1991), with the

¹⁷U.S. Dept. of Justice. Media Advisory to Editors of Japanese American and Japanese Newspapers. From Deborah Burstion-Wade. December 21, 1989. A broad summary of the Justice Department's regulations appears in: *Ibid.* Civil Rights Division. Office of Redress Administration. *Redress Regulations; Questions and Answers*. Washington, D.C., [Govt. Print. Off.], c. 1989.

¹⁸For the law that authorizes financial restitution generally, see Title I, Sec. 105 of the Civil Liberties Act of 1988 (102 Stat. 905-908). For the Federal regulations, see U.S. Dept. of Justice. Final rule. pp. 34157-34168. For the sources of the estimate of 65,000 survivors, see Appendix A. The ORA's actuary recently estimated that there were 65,000 Japanese Americans eligible for redress. Moreover, as the Department began to send out letters that verified the eligibility of Japanese Americans, its staff began to think that more than 65,000 eligible Japanese Americans might be alive. See: U.S. Dept. of Justice. Media Advisory. December 21, 1989. For the most recent estimate of the letters sent out, see: *Ibid.* June 15, 1990.

first payments to be sent out shortly after that date. Under that law \$500,000,000 a year becomes available for redress payments during Fiscal Years 1991 and 1992. The remaining, authorized monies are to be appropriated for Fiscal Year 1993. Monies for redress, when appropriated, may be expended as late as August 10, 1998, under the terms of the Act (102 Stat. 905), should the redress effort require the time.¹⁹

Who is eligible for redress?²⁰

In general to be eligible, a person must have been a United States citizen or permanent resident alien. He or she must be of Japanese ancestry, must have been interned during World War II by the Federal Government, and must have been alive on August 10, 1988, when the Civil Liberties Act of 1988 became law. In addition, to be eligible a person -- solely on the basis of Japanese ancestry -- must also have been confined, held in custody, relocated, or otherwise deprived of liberty or property, as a result of various U.S. laws, Presidential directives, and other enforcement actions, from December 7, 1941, through June 30, 1946. The Civil Liberties Act of 1988 includes among those enforcement actions Executive Order 9066 and Public Law 77-503 (56 Stat. 173). Additional details about who is eligible appear in the Department of

¹⁹Mineta, Norman Y. Remarks in the House. *Congressional Record*, Daily Edition, v. 135, Oct. 26, 1989. pp. H7591-H7592.

No more than \$500,000,000 may be appropriated to pay redress for any fiscal year, under the terms of the Civil Liberties Act of 1988, the law that authorizes redress -- Title I, Sec. 104(e) of the Act (102 Stat. 905). "Subject to appropriations" means that the payment of the entitlements depends on the enactment of appropriations to provide the money. The Act authorizes the Congress and the President to appropriate \$1.25 billion to the Civil Liberties Public Education Fund. It is out of that Fund that the monies for redress are paid. For the Conference Report discussion, see: Joint Explanatory Statement of the Committee of Conference. *Congressional Record*, Daily Edition, v. 134, July 26, 1988. p. H5800. See also, U.S. Dept. of Justice. The Civil Liberties Act of 1988; Questions and Answers. p. 4.

For the entitlement status of Japanese American redress appropriations, see: Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1990, Public Law 101-162 (103 Stat. 996, 1005-1006). The Civil Liberties Act of 1988 defines the duration of the redress program in Sec. 104(d)(102 Stat. 905).

Statistics about the amounts and years of the redress payments appear in: U.S. Dept. of Justice. Redress Regulations; Questions and Answers. pp. 9-10.

²⁰Title I, Sec. 108(2) of the Act (102 Stat. 910). Also, U.S. Dept. of Justice. Final rule. Subpart B -- Standards of Eligibility; § 74.3 Eligibility determinations. pp. 34162.

Justice's "Redress Provisions for Persons of Japanese Ancestry; Final Rule." A copy of the rule appears in Appendix C.²¹

*Under the Act, Americans of Japanese ancestry who were interned during that War but who died before August 10, 1988, are not eligible. Neither are their statutory heirs.*²²

Many "Voluntary evacuees" are likewise eligible. They are Japanese Americans who left the West Coast after March 2, 1942, after the mandatory military orders of removal and incarceration had been issued, but before being prevented from leaving the prohibited areas.²³

Persons of Japanese ancestry may qualify for redress if they served in military service while the evacuation and internment occurred during World War II. They could qualify if, under those circumstances, their domicile lay in a prohibited zone and, as a result of government action, they lost property. Or, they could qualify if, under the same circumstances, government

²¹For the enforcement actions specified by the 1988 Act, see 102 Stat 910 §108(2)(B)(i)(III), which among those actions names Executive Order 9066 and Public Law 77-503 (56 Stat. 173).

In addition, the law includes:

any other Executive order, Presidential proclamation, law of the United States, directive of the Armed Force 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....

See Title I, Sec. 108(1)(2) of the Act (102 Stat. 910). Also, see Sec. 1(4) (102 Stat. 903). Also, U.S. Dept. of Justice. Final rule. Subpart B -- Standards of Eligibility; § 74.3 Eligibility determinations. pp. 34162.

²²Title I, Sec. 108(2) of the Act (102 Stat. 910). U.S. Dept. of Justice. Final rule. Subpart B -- Standards of Eligibility; § 74.3(a)(2) Eligibility determinations. p. 34162.

²³Title I, Sec. 108(1)(2) of the Act (102 Stat. 910). The Justice Department in its final rules for redress defines who among voluntary evacuees is likely to be eligible. For the explanation the Office of Redress offers about eligibility of voluntary evacuees, see: U.S. Dept. of Justice. Final rule. II.: Responses to Comments and Summary of the Regulations and Revisions. pp. 34159-34160. The text appears in Appendix C.

regulations prohibited them from visiting their interned families, or if they were forced to submit to undue restrictions that deprived them of liberty.²⁴

In addition, under the Civil Liberties Act of 1988, persons born in assembly or relocation centers, or internment camps, are eligible for redress.²⁵

Moreover, certain statutory heirs are eligible for redress under Public Law 100-383, under the following conditions:

First, the \$20,000 can go to a surviving spouse, if the marriage had lasted for at least one year before the death.

Second, if no spouse survives, the \$20,000 can be given equally to each of the children living at the time of payment. Children eligible for such benefits include a recognized natural child, a step-child who lived with the eligible individual in a regular parent-child relationship, and an adopted child.

Third, if no children survive, equal shares can be paid to parents living on the date of payment. A parent includes fathers and mothers through adoption.²⁶

If nobody survives the eligible individual (that is, no one who falls into any of these three categories of statutory heirs), the compensation remains in the Civil Liberties Public Education Fund.²⁷

Yet another group potentially eligible for redress are Latin American immigrants of Japanese ancestry, interned by the United States during World War II. At that time, with certain South American nations, the United States agreed that, in the name of defense against the Axis powers, about 2,300 Latin Americans of Japanese ancestry should be sent to the U.S. for internment or repatriation. Four of every five of these persons were either Japanese nationals living in Peru or Peruvian citizens of Japanese ancestry.

²⁴U.S. Dept. of Justice. Final rule; § 74.3 (4) and (5). p. 34162.

²⁵U.S. Dept. of Justice. Final rule. II.: Responses to Comments and Summary of the Regulations and Revisions. pp. 34160, col. 1. And, *ibid.*: § 74.3(b)(7) Eligibility determinations. p. 34162.

²⁶Title I, Sec. 105(a)(7)(iii) of the Act (102 Stat. 907). Also, U.S. Dept. of Justice. Final rule: § 74.13(c). p. 34163.

²⁷Title I, Sec. 105(a)(7)(A)(iii) of the Act (102 Stat. 907). Also, U.S. Dept. of Justice. U.S. Dept. of Justice. Final rule: § 74.13(d). pp. 34163.

Transported to the internment camps under U.S. custody, these individuals were classified as illegal aliens.²⁸

Research done by the Justice Department's Office of Redress Administration indicates that about 80-percent of the Latin Americans of Japanese ancestry who remained in the United States after the War could have received "retroactive permanent residency". That is, after what the Justice Department describes as years of waiting, the immigrants from Latin America received from the Federal Government permanent resident alien status retroactive to when they entered the United States for internment. That status qualifies them for the benefits of the Civil Liberties Act of 1988.²⁹

The proposed rules also state that, if born in the camps during the internment, the children of those immigrants would be eligible for redress.³⁰

²⁸U.S. Dept. of Justice. Office of Public Affairs. Media advisory memorandum to editors of Japanese American and Japanese newspapers, from Deborah Burstion-Wade. October 25, 1989. See also, U.S. Dept. of Justice. Final rule: II. Responses to Comments and Summary of the Regulations and Revisions. pp. 34160, cols. 2 and 3.

²⁹U.S. Dept. of Justice. Media advisory memorandum. October 25, 1989. The memorandum goes on to state:

Not all Latin American Japanese received the retroactive change because of the way in which they obtained permanent resident status. Non-retroactive methods for receiving legal status were: 1) applying for suspension of deportation after the 1952 Immigration and Nationality Act was enacted; 2) applying under the amended Refugee Act of 1953; and 3) leaving the country and then re-entering under a formal visa. None of these methods are qualifying as eligible under the Civil Liberties Act.

³⁰U.S. Dept. of Justice. Final rule: II. Responses to Comments and Summary of the Regulations and Revisions. pp. 34160, cols. 2 and 3.

Who is not eligible for redress?³¹

Under the Act, as noted above, Americans of Japanese ancestry who were interned during that War but who died before August 10, 1988, when the Civil Liberties Act of 1988 became law, are not eligible. Neither are their heirs.³²

An estimated 40 surviving Americans not of Japanese descent (out of the original 80), who were interned with their Japanese American spouses or children, are likewise ineligible for redress under the Act. The Justice Department, however, states that it will ask Congress to include those Americans in the redress law.³³

³¹In addition to the categories described in this section, the Justice Department identified a potential group:

There remain those cases, if any, of evacuations occurring *before* March 2, 1942, but *not* in response to a governmental order directly specifically at the evacuees. We believed that if there are any such evacuees, they cannot be considered eligible [for redress]. [Emphasis in the original.]

March 2, 1942, is the date of Public Proclamation Number 1, directing Americans of Japanese descent to evacuate restricted areas on the West Coast and go to internment camps. The Justice Department opinion appears in: Final rule: II. Responses to Comments and Summary of the Regulations and Revisions. p. 34160, col. 1.

³²Title I, Sec. 108(2) of the Act (102 Stat. 910). Also, U.S. Dept. of Justice. Final rule. Subpart B -- Standards of Eligibility; § 74.3(a)(2) Eligibility determinations. p. 34162, col. 1.

³³U.S. Dept. of Justice. Final rule: Supplementary Information: II. Responses to Comments and Summary of the Regulations and Revisions. p. 34158, cols. 2 and 3. In the passage cited, the Justice Department stated its intentions toward non-Japanese American spouses:

...[T]he Department will submit legislation to the Congress to amend the Civil Liberties Act of 1988 to render eligible those non-Japanese family members who suffered the effects of the government's internment policy by accompanying their spouses or children of Japanese ancestry through the evacuation and internment process.

Also not eligible for redress are Japanese American children born after their parents had voluntarily relocated from the prohibited zones or had departed from relocation centers or internment camps.³⁴

Excluded too from redress compensation is any person who, between December 7, 1941, and September 2, 1945, relocated to a country at war with the United States.³⁵

What evidence does a person need to prove eligibility?³⁶

The Civil Liberties Act of 1988 states that the Attorney General, using records already possessed by the Federal Government, shall locate and identify all eligible persons. The Act does not require potentially eligible individuals from applying for redress.³⁷

The Office of Redress Administration (ORA) relies heavily on the names that appear in the Final Accountability Roster from each internment camp for determining who qualifies for redress. "Change of Residence" cards likewise are important for deciding who qualifies as a voluntary evacuee. The U.S. National Archives and Records Administration maintains the rosters and the cards, as does the Office. Persons who believe they are eligible may voluntarily submit to the Office any information or documents they wish or feel may be helpful. The following information is useful to the Office:

- Name, including maiden or other names used
- Date of birth
- Address
- Home and business telephone numbers

³⁴U.S. Dept. of Justice. Final rule: Supplementary Information: II. Responses to Comments. p. 34160, col. 1.

³⁵This exclusion provision appears in Title 1, Sec. 108(2)(B)(ii) of the Civil Liberties Act of 1988 (102 Stat. 910). See also, U.S. Dept. of Justice. Final rule. pp. 14159-60.

³⁶U.S. Dept. of Justice. Final rule: II. Verification Procedures. pp. 34160-34161. The *Pacific Citizen* of November 24, 1989 (volume 109, number 17) includes a four-page brochure from the Justice Department that explains the Department's verification procedures for redress. The brochure includes a description of the documentation requirements. U.S. Dept. of Justice. Office of Redress Administration. *Verifying Your Eligibility*. N.p., n.p., [1989?].

³⁷Title I, Sec. 105(a)(2) of the Civil Liberties Act of 1988 (102 Stat. 906).

- Social Security Number³⁸
- Locations of detention or internment
- The names of parents or guardians of individuals who were children at the time of internment
- Any changes in names (for example, the changes can be those of marriage or those that occurred in the internment camps. When possible, all name changes should be noted)
- The names and addresses of family members who may become statutory heirs, should the potentially eligible person die before receiving compensation (typically, those names would include those of a spouse, parents, and children)³⁹

The Office has expressed hope that cooperation between its staff and Japanese Americans will further its efforts to find and contact all Japanese Americans eligible for financial redress. For Japanese Americans whom the Justice Department determines to be ineligible, the Department of Justice has established procedures for appeal. For documentation and other information about internment in the relocation camps, contact the Office of Redress Administration, Department of Justice.⁴⁰

Does the evidence have to be in English?⁴¹

No. Information may be given in English or Japanese, by telephone or in writing, to the address given above, on page 3.

³⁸The Office of Redress Administration states that the Social Security number is an excellent means of identification. But, failing to provide it will not jeopardize the payment of redress to anyone eligible for it. See U.S. Dept. of Justice. The Civil Liberties Act of 1988; Questions and Answers. p. 9.

³⁹For the criteria that surviving spouses have to meet to be eligible, see above, p. 14.

⁴⁰For an official description of the Justice Department's procedure for appeals, see U.S. Dept. of Justice. Final rule. pp. 34161, cols. 1 and 2, and 34164, col. 3ff. For the address of the ORA, see above, p. 4.

⁴¹U.S. Dept. of Justice. The Civil Liberties Act of 1988; Questions and Answers. p. 8. For examples of forms that are available from the Justice Department for redress application, see below, Appendix C. Also, U.S. Dept. of Justice. Final rule. pp. 34165-34168.

How are people eligible for redress being identified and located?⁴²

The Civil Liberties Act of 1988 states that:

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 [for financial redress].⁴³

The Justice Department's Civil Rights Division created the Office of Redress Administration to compile the list of Japanese Americans eligible for financial redress, and to administer that redress. As noted on page 11, the Department states that, even though almost all of the potentially eligible Japanese Americans have been listed, it will continue to seek the few who may be eligible but who have not been found.⁴⁴

To help carry out that responsibility, the Office has conducted a major "public awareness campaign", relying on such vehicles as television, radio, newspapers, journals, and newsletters. The Office has also been working with various Japanese American institutions, such as church, and community and ethnic organizations. The campaign publicized that the Department was compiling the list and encouraged Japanese Americans to assist the effort.⁴⁵

Although an application for redress is not required, any person who believes that he or she is eligible is invited to contact Robert Bratt, the Administrator of the Justice Department's Office of Redress Administration, P.O. Box 66260, Washington, D.C. 20035-6260.

⁴²Title I, Sec. 105(a) of the Act (102 Stat. 905-907). Also, U.S. Dept. of Justice. Final rule; II. Verification Procedures, pp. 34160, col. 3, and 34161, col. 1. Also, III. Notification and Payment, p. 34161, col. 1.

⁴³The authority for the Justice Department's identification and location of persons eligible for redress appears under Sec. 105(2) of the Act (102 Stat. 906).

⁴⁴*Ibid.*

⁴⁵For an official statement of how the Justice Department gathered names and listing them, see: U.S. Dept. of Justice. The Civil Liberties Act of 1988; Questions and Answers. p. 6. See also, U.S. Dept. of Justice. Final rule; I. Background. pp. 34157-34158.

Can a friend or relative submit information on behalf of someone potentially eligible for redress?

Anyone can submit information on behalf of a person who might be eligible for redress. Many eligible Japanese Americans are now old and may not be able to contact the Office of Redress personally. The address of the Office appears in the entry before this one.⁴⁶

How large is the list of potential recipients for redress?

The Justice Department states that it has listed almost all Japanese Americans potentially eligible for redress, approximately 65,000. However, while almost all are presumably eligible, no exact statistic exists. Some uncertainty remains in a few instances over who is eligible, because some eligibility requirements are less explicitly defined than others. Resolving questions of eligibility requirements occasionally may take additional research by the Office of Redress Administration.⁴⁷

What notice will Japanese Americans eligible for redress receive?

Since the fall of 1989 the Office of Redress Administration has been sending letters to Americans of Japanese ancestry eligible for redress, confirming that they are eligible for payments. The Office has done so under directions from the Civil Liberties Act of 1988. The Act states that the Attorney General shall, in writing, notify each eligible Japanese American that he or she can receive the financial redress payment. The payments will begin in Fiscal Year 1991 out of the Civil Liberties Public Education Fund. Each notice states that acceptance of a redress payment "shall be in full satisfaction of all claims against the United States" arising from the evacuation, relocation, and internment. The notice must also state that, if the recipient does not refuse the payment within eighteen months after being notified, he or she will have accepted the payment as "full satisfaction of all claims against the United States arising out of the acts ..."⁴⁸

⁴⁶U.S. Dept. of Justice. The Civil Liberties Act of 1988; Questions and Answers. p. 7.

⁴⁷See page 11 for the discussion of the outreach efforts by the Office to locate Japanese Americans who should be on the redress lists but are not.

⁴⁸U.S. Dept. of Justice. Office of Public Affairs. Office of the Director. Media Advisory. Washington, D.C., Dept. of Justice, December 21, 1989. Also, U.S. Dept. of Justice. The Civil Liberties Act of 1988; Questions and Answers. p. 7. In addition, see: Title I, Sec. 105(a)(3) of the Act (102 Stat. 906). U.S. Dept. of Justice. Final rule: II. Verification Procedures. p. 34160, col. 3. Moreover, *ibid.*: Subpart D -- Notification and Payment. pp. 34163-34164.

In what order will people eligible for redress be paid?⁴⁹

Payment will be made in the order of date of birth under the provision of the Civil Liberties Act of 1988 that defines the order of payments: Section 105(b) -- 102 Stat. 907. The oldest applicants, living on August 10, 1988 or afterwards, are to be paid first, according to their date of birth. When applicable, the statutory heirs of the oldest shall be paid according to the order of the birth of the deceased.

When redress funds become available, how long will they remain so?⁵⁰

The funds in the Civil Liberties Public Education Fund will remain available until August 10, 1998 (ten years after the Civil Liberties Act of 1988 became law), to be distributed for individual compensation or educational purposes.

The Act directs that any amounts left in the Fund on August 10, 1998, be liquidated and deposited in the U.S. Treasury. Under no circumstances will any of those funds be returned to the U.S. Treasury before the deadline.⁵¹

How much money would eligible persons receive?⁵²

Each eligible person will receive \$20,000, unless he or she refuses to accept it. The Act states that if, in a written document filed with the Attorney General, an eligible individual refuses to accept the \$20,000, that

⁴⁹Title I, Sec. 105(b) of the Act (102 Stat. 907). U.S. Dept. of Justice. Final rule: § 74.12 Order of payment. p. 34163, col. 3.

⁵⁰Title I, Sec. 104(d) of the Act (102 Stat. 905).

⁵¹The statement that under no circumstances will any of the redress funds be returned to the U.S. Treasury comes from remarks made by floor managers of the Act on July 27, 1988, during debate in the Senate over final approval of the Act. See, Civil Liberties Act -- Conference Report. *Congressional Record*, Daily Edition, v. 134, July 27, 1988. p. S10152. The provisions for the deadline and the return of monies in the Fund to the Treasury appears in Sec. 104(d) of the Act (102 Stat. 905).

⁵²Title I, Sec. 105(a)(1) of the Act (102 Stat. 906). U.S. Dept. of Justice. Final rule: I. Background. p. 34157, col. 3. Also, *ibid.*; § 74.10(a). p. 34163, col. 2.

money shall remain in the Fund. Once individuals refuse payment, they cannot change their mind.⁶³

How much money will be available for the payment of redress?⁶⁴

The Civil Liberties Act of 1988 authorizes the payment of \$1.25 billion for the financial redress of Japanese Americans. On November 21, 1989, Public Law 101-162 (the appropriations act for the Departments of Commerce, Justice and other agencies) made the payments an entitlement, subject to appropriations. Redress monies are to come from the Civil Liberties Public Education Fund, the creation of which the Civil Liberties Act directs.⁶⁵

The speed with which redress is administered should affect the number of surviving internees to receive it, since the internee population is estimated to be dying at a rate of between 150 and 200 persons a month, depending on the month. As of September 1990 the Office of Redress Administration had verified as eligible for payment 22,500 of the oldest Japanese Americans.⁶⁶

⁶³For the authorization, see Title I, Sec. 105(a)(1) of the Act (102 Stat. 906). And, for the appropriation provision, see Title I, Sec. 104(e), (102 Stat. 905).

⁶⁴Title I, Sec. 104(e) of the Act (102 Stat. 905).

⁶⁵Civil Liberties Act -- Conference Report. *Congressional Record*, Daily Edition, v. 134, July 27, 1988. p. S10152. See footnote 14. For the entitlement status of the payments, see: Title II, Sec. 110, of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1990 (103 Stat. 1005-1006).

⁶⁶Office of Redress Administration staff, September 24, 1990. An earlier estimate placed the death rate at 2,000 a year. See: Civil Liberties Act -- Conference Report. *Congressional Record*, Daily Edition, v. 134, July 27, 1988. p. S10152. Also, U.S. Dept. of Justice. News release, "Age Figures Released on Former Internees." August 2, 1989. Also, Memorandum. Jeanne E. Griffith, Specialist in Social Legislation, Education and public Welfare Division, Congressional Research Service, Library of Congress, to the Hon. Norman Y. Mineta, attention Glenn Roberts. April 22, 1986.

Who will pay out the redress monies?⁵⁷

The Justice Department's final rules for administering redress describe the procedure:

After funds have been appropriated and actual payments are to be made, the Assistant Attorney General for Civil Rights will certify authorization for payment to the Assistant Attorney General for Justice Management, who will give final authorization to the Secretary of the Treasury.⁵⁸

The Treasury Department, after checking to see that the authorization does not exceed the amounts appropriated, issues the checks as required.

Do taxes have to be paid on redress payments?⁵⁹

No Federal tax has to be paid on any redress payments. The Act specifies that the redress paid shall not be included as income or as resources used to determine a recipient's eligibility to receive certain Federally-funded benefits. Shortly after the enactment of the Civil Liberties Act of 1988, an official of the Legislative Education Committee of the Japanese American Citizens League made the following statement about the potential for State taxation of the redress benefits:

How states will treat the "redress" payment will vary from state to state. Some states will pass laws to treat the payment in the same way as the Federal Government (and hence, will not tax the compensation nor use for it for eligibility determination). Others may pass variations of this, or may not pass any laws at all....⁶⁰

⁵⁷Title I, Sec. 104(c), (102 Stat. 905), and Sec. 105(b) of the Act (102 Stat. 907).

⁵⁸U.S. Dept. of Justice. Final rule: III. Notification and Payment. p. 34161, col. 1.

⁵⁹Title I, Sec. 105(f) of the Act (102 Stat. 908).

⁶⁰Rita Takahashi, "Questions and Answers; PL 100-383: Civil Liberties Act," pp. 3-4. On September 24, 1990, a spokesperson for the Department of Justice, Civil Rights Division, Office of Redress Administration, during a telephone conversation supported this view.

If a person accepts the redress payment, does that jeopardize his or her eligibility for any Federally-funded programs such as Social Security?⁶¹

Accepting the redress payment will not jeopardize the eligibility of any American of Japanese ancestry for Federally-funded programs. The Act states that anyone paid redress does not have to list it as a resource for determining their eligibility to receive Social Security benefits described under section 3803(c)(2)(C) of Title 31, U.S. Code.

Section 3803(c)(2)(C) identifies a large number of programs that apply to the Civil Liberties Act of 1988. Under the Civil Liberties Act of 1988, receiving a redress payment would not in and of itself disqualify a person from being eligible for such Social Security programs as:

- Supplemental Security income (Title XVI)
- Old Age, Survivors, and Disability Insurance Benefits (Title II)
- Medicare (Title XVIII)
- Aid to families with dependent children under a State plan approved under Section 402(a)
- Social services (Title XX)

Nor would a recipient of redress be ineligible for benefits from the following, additional programs:

- Food Stamp Act of 1977 benefits
- Various veterans' benefits under title 38 of the U.S. Code
- Black lung
- Special supplemental food program for women, infants, and children (Section 17, Child Nutrition Act of 1966)
- Older Americans Act (Section 336)
- Any annuity or other benefit under the Railroad Retirement Act of 1974
- National School Lunch Act
- Housing assistance program for lower income families or elderly or handicapped persons (administered by the Secretary of Housing and Urban Development or the Secretary of Agriculture)
- Low-Income Home Energy Assistance Act of 1981
- Part A of the Energy Conservation in Existing Buildings Act of 1976, which are intended for the personal use of the individual who receives the benefits or for a member of the individual's family.

Specific questions about how Social Security laws apply to redress should be addressed to the local Social Security office.⁶²

⁶¹Title I, Sec. 105(f) of the Act (102 Stat. 908).

⁶²U.S. Dept. of Justice. The Civil Liberties Act of 1988; Questions and Answers. pp. 11-12.

What effect does a legal suit, for court-awarded damages because of the internment, have on payments under Public Law 100-383?⁶³

For all intents and purposes, a legal suit for court-awarded damages because of the internment should have no effect on redress payments under the Civil Liberties Act of 1988. Events overtook this provision of the Act when the Supreme Court on October 31, 1988, let stand a U.S. Court of Appeals ruling. The ruling held that Japanese Americans interned during World War II were not entitled to court-awarded damages, because they had waited too long to file claims for their property losses then. With the Supreme Court's action, the last of the court suits brought by Japanese Americans for damages because of the internment died.⁶⁴

Does residence overseas affect a person's eligibility for redress?

The Act makes no distinction about residence. Where Japanese Americans live, whether in the United States or abroad, should have no legal bearing on their eligibility for redress.

⁶³Title 1, Sec. 105 (a)(6) of the Act (102 Stat. 907).

⁶⁴Under the Civil Liberties Act of 1988 a former internee has to choose between accepting the \$20,000 payment under the redress law or any court-awarded damages that might become available. The Act specifically prohibits accepting both. A former internee has 18 months in which to decide whether or not to accept the \$20,000, after being notified by the Federal Government of his or her eligibility. Title I, Sec. 105(a)(6) of the Act 102 (Stat.) 907.

The dilemma arose because of the class-action suit, *William Hohri et al. vs. United States of America*, brought before the Federal Courts. The suit sought to recover damages caused by the wartime internment of American citizens and residents of Japanese ancestry. The U.S. Court of Appeals, Federal Circuit, on May 11, 1988, affirmed the decision rendered three years earlier by the U.S. District Court, District of Columbia. The effect of the affirmation was to dismiss the class-action lawsuit brought by Mr. Hohri and others. On October 31, 1988, without comment the Supreme Court denied to Hohri and the other parties a petition before it for a writ of certiorari. In effect, the Supreme Court let stand the Court of Appeals and the District Court Hohri decisions, and halted any further effort by Japanese Americans to secure additional redress through the courts. Most public libraries should have a copy of the opinions. See *William Hohri et al. v. United States*, 847 F.2d 779 (Fed. Cir. 1988), and 586 F. Supp. 769 (1984). Additional information about the case can be obtained from: William Honri, 4717 North Albany, Chicago, Ill. 60625. See also, Al Kamen. Court Takes Separation-of-Powers Case. *Washington Post*, Nov. 1, 1988. p. A4.

Does citizenship make a difference in eligibility?

Current citizenship should make no difference in eligibility, so long as the person who seeks redress meets all of the eligibility requirements provided for in the Civil Liberties Act of 1988. However, persons of Japanese ancestry sent from Latin America to the United States at the outbreak of World War II may have a problem. See the discussion on page 14.

What happens to the redress payment if a person refuses to accept it?

Refused redress payments remain with the Civil Liberties Fund. According to the Act:

If an eligible individual refuses, in a written document filed with the Attorney General to accept any payment [for redress under the law]..., the amount of such payment shall remain in the Fund and no payment may be made under this section such individual at any time after such refusal.⁶⁶

How can anyone interested in redress keep informed about it?

Anyone who has contacted the Office of Redress Administration has been placed on the office mailing list for additional information about redress as that information becomes available.⁶⁶

⁶⁶Title I, Sec. 105(a)(4) of the Act (102 Stat. 906).

⁶⁶U.S. Dept. of Justice. The Civil Liberties Act of 1988; Questions and Answers. p. 12.

THE CIVIL LIBERTIES PUBLIC EDUCATION FUND

What does the Fund do?

The Civil Liberties Public Education Fund provides the Attorney General with the monies for the redress payments. However, the Fund does not pay the expenses incurred by the Justice Department to determine who is eligible for redress payments or for contacting those persons.⁶⁷

The Fund also disburses money appropriated by the Congress to illuminate the causes and circumstances of the evacuation, relocation, and internment of Japanese Americans during World War II. In addition, the Fund supports publicity and education about other, similar events in American history. The Fund's efforts are designed to prevent what happened to Japanese Americans and others from happening again to them or to any other minority in the United States. To carry out the purposes for which it was created, the Fund will sponsor research and public education, and will support the publication and distribution of the hearings, findings, and recommendations of the Commission on Wartime Relocation and Internment of Civilians. The Fund will be established when monies for it are appropriated.⁶⁸

How is the Fund administered?⁶⁹

The Fund's Board of Directors is responsible for disbursements from the Fund for its educational programs. The President appoints the nine-person Board, subject to the advice and consent of the U.S. Senate. The first appointments are for staggered terms. The rest of the terms run for three years each; no Member can serve more than two terms.

The members of the Board, in turn, appoint their Chair and a Director. The Board may also appoint and fix the pay of additional staff as needed. And, the Administrator of the General Services Administration, on a reimbursable basis, shall provide support services the Board requests.

The Fund's Board must account to the public for its activities in an annual report to the President and to each chamber of Congress. No later

⁶⁷Title I, Secs. 105(d) and 106(a)(b) of the Act (102 Stat. 908).

⁶⁸Title I, Sec. 106(b)(1)(2) of the Act (102 Stat. 908). The information about the establishment of the fund came from a spokesperson for the Office of Redress Administration. Telephone interview. September 24, 1990.

⁶⁹Title I, Secs. 104 and 106 of the Act (102 Stat. 905, 908-909).

than 12 months after its initial meeting, the Board must transmit its first report.

The Board will cease to exist ninety days after the Civil Liberties Public Education Fund is exhausted. When the Board no longer exists, all of its obligations as described in the part of the Act that establishes the Board will expire. The longest the Board could last would be 90 days after August 10, 1998, when by law the Fund expires. On August 10th, any monies remaining in the Fund would be deposited in the miscellaneous receipts account in the U.S. Treasury. The 90th day after that would be November 8, 1998.

DOCUMENTS OF THE INTERNMENT**What will happen to the documents of the internment?**

The Act directs the Archivist of the United States to keep, maintain, and preserve all documents, personal testimony, and other records created or received by the Commission on Wartime Relocation and Internment of Civilians during its inquiries. Moreover, the Archivist shall make available to the public, for research purposes, those documents, testimony, and records. Finally, the Civil Liberties Act of 1988 authorizes the Clerk of the House of Representatives to make available for research certain records of the House not classified for national security purposes. These are records, which have existed for no fewer than thirty years, about the evacuation, relocation, and internment of individuals during World War II.⁷⁰

JS/ds

⁷⁰The Archivist's responsibilities are defined in Title I, Sec. 107 of the Act (102 Stat. 109-110). The Standing Rules of the Senate provide for the preservation of related Senate documents. Those documents are sent to the Archives. U.S. Congress. Senate. Committee on Rules and Administration. Senate Manual, Containing the Rules, Orders, Laws, and Resolutions Affecting the Business of the United States Senate. Rule XI, para. 2. Senate Document, 100th Cong., 1st Sess. Washington, U.S. Govt. Print. Off., 1987. p. 9.

APPENDIX A: NOTES ON SOURCES

Several documents and statements served as the major sources for the report. Chief among the documents are the text of the Civil Liberties Act of 1988, and the Department of Justice's "Redress Provisions for Persons of Japanese Ancestry; Final Rule." Many of the statements used in this document are those of the managers of legislation during its final consideration by the House and the Senate. Other sources include experts, in the Congress and in private life, about the redress law. Of particular value among those sources are summaries of the Act written and provided by the Office of Redress Administration, Department of Justice. Also valuable is Rita Takahashi's "Questions and Answers; PL 100-383: Civil Liberties Act," issued by the Legislative Education Committee of the Japanese American Citizens League.⁷¹

The Department of Justice is responsible for administering Section 105 of the Act, which states the redress provisions of the Civil Liberties Act of 1988. The text of the final rules it relies on to administer the law appears in Appendix C.

To enhance the accuracy of this report, it underwent review by staff with the Justice Department's Office of Redress Administration. Aiko and Jack Herzig likewise read the report closely; they helped lead the effort for redress.

Others who have enhanced the accuracy of this report through review are members of various congressional staffs. They are also authorities on the issue. They include: Maria Blanco, Legislative Assistant to Senator Daniel K. Inouye. Marina Chang, Legislative Assistant to Representative Patricia F. Saiki. Belle Cummins, Assistant Counsel, House Subcommittee on

⁷¹For the Senate floor managers' statements, see: Civil Liberties Act--Conference Report. *Congressional Record*, Daily Edition, v. 134, July 27, 1988. p. S10151-S10153. For the House floor managers' statements, see, U.S. Congress. House. Joint Explanatory Statement of the Committee of Conference. *Ibid.*, July 26, 1988, p. H5800.

The Department of Justice distributes several documents that summarize the law. One is "The Civil Liberties Act of 1988; Questions and Answers." Another is "Redress Program in Brief." A third is "The Civil Liberties Act of 1988; How the Proposed Regulations Will Affect You. They are available from the Department's Civil Rights Division, Office of Redress Administration, Post Office Box 66260, Washington, D.C. 20035-6260.

The Japanese American Citizens League's offices are at 1730 Rhode Island Ave., N.W., Washington, D.C. 20036. It assumed the work of the Legislative Education Committee, after the Committee was disbanded in June 1990.

Administrative Law, Judiciary Committee. Neil Dhillon, Administrative Assistant to Representative Robert T. Matsui. Elma C. Henderson, former Professional Staff Member, Subcommittee on Aging, Senate Committee on Labor and Human Resources. Stuart J. Ishimaru, Assistant Counsel, Subcommittee on Civil and Constitutional Rights, House Committee on the Judiciary. Patrick McGarey, Legislative Director to Senator Daniel K. Akaka. And, Carol Stroebel, former Legislative Director for Representative Norman Mineta.

Still others who have reviewed this report to its profit include Larry Eig, Attorney, American Law Division, Congressional Research Service, and JoAnne H. Kagiwada, former Executive Director of the Legislative Education Committee of the Japanese American Citizens League.

Since the signing of the law on August 10, 1988, the Justice Department has been organizing the means for administering financial redress. For information about the Act which is not provided in this report, write in English or Japanese to:

Office of Redress Administration
Department of Justice
P.O. Box 66260
Washington, D.C. 20035-6260

For statistics on the citizenship status of Japanese Americans who were evacuated, relocated, and interned, see: U.S. War Relocation Authority. Dept. of the Interior. *The Evacuated People; A Quantitative Description*. Washington, D.C., U.S. Govt. Print. Off., 1946. pp. 67-68.

APPENDIX B:

THE TEXT OF PUBLIC LAW 100-383

THE CIVIL LIBERTIES ACT OF 1989

August 10, 1988

Public Law 100-383
100th Congress

An Act

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

Aug. 10, 1988
[H.R. 442]

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

Human rights.

SECTION 1. PURPOSES.

50 USC app.
1989.

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;

Public
information.

(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;

Real property.

(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.

50 USC app.
1989a.

(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.

Civil Liberties
Act of 1988.

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

50 USC app.
1989b.

SEC 101. SHORT TITLE.

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

50 USC app.
1989b-1.

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.

50 USC app.
1989b-2.

(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.

50 USC app.
1989b-3.

(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.

50 USC app.
1989b-4.

(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

Records.
Public
information.

Appropriation
authorization.

Claims

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.

Claims.

(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.

Records.

(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.

50 USC app.
1989b-5.

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—

Research and
development.
Education.
Public
information.

(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

50 USC app.
1989b-6.

Public
information

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.

50 USC app.
1989b-7.

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).

50 USC app.
1989b-8.
Contracts.

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.

Effective date

TITLE II—ALEUTIAN AND PRIBILOF ISLANDS RESTITUTION

Aleutian and Pribilof Islands Restitution Act, Alaska.

SEC. 201. SHORT TITLE.

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

50 USC app. 1989c.

SEC. 202. DEFINITIONS.

50 USC app. 1989c-1.

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.

50 USC app. 1989c-2.

(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.

Securities. (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.

50 USC app.
1989c-3.
Contracts.

SEC. 204. APPOINTMENT OF ADMINISTRATOR.

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

50 USC app.
1989c-4.

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 war-time 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.

Aged persons.
Handicapped persons.
Education.
Historic preservation.
Community development.

Records.

(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.

50 USC app.
1989c-5.

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.

Public lands.
National
Wildlife Refuge
System.
Conservation.
50 USC app.
1989c-6.

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.

Contracts.
50 USC app.
1989c-7.

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,

Effective date.

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.

50 USC app.
1989c-8.

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.

Mexico.
Indians.
50 USC app.
1989d.

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.

Approved August 10, 1988.

LEGISLATIVE HISTORY—H.R. 442:

HOUSE REPORTS: No. 100-278 (Comm. on the Judiciary) and No. 100-785 (Comm. of Conference).

CONGRESSIONAL RECORD:

Vol. 133 (1987): Sept. 17, considered and passed House.

Vol. 134 (1988): Apr. 20, considered and passed Senate, amended.

July 27, Senate agreed to conference report.

Aug. 4, House agreed to conference report.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 24 (1988):

Aug. 10, Presidential remarks.



APPENDIX C:

**REDRESS PROVISIONS FOR PERSONS OF JAPANESE ANCESTRY
FINAL RULE**

UNITED STATES DEPARTMENT OF JUSTICE

August 10, 1989

DEPARTMENT OF JUSTICE**28 CFR Part 74****[Order No. 1359-89]****Redress Provisions for Persons of Japanese Ancestry****AGENCY:** Department of Justice.**ACTION:** Final rule.

SUMMARY: The Department of Justice hereby adopts rules for the enforcement of section 105 of the Civil Liberties Act of 1988, Pub. L. 100-383, 102 Stat. 903, codified at 50 U.S.C. app. 1989b-4, which authorizes the Attorney General to identify, locate, and when funds are appropriated, make payments of \$20,000 to eligible individuals of Japanese ancestry who were evacuated, relocated or interned during World War II.

EFFECTIVE DATE: August 18, 1989.

ADDRESSES: Comments received on the Notice of Proposed Rulemaking will remain available for public inspection at the Office of Redress Administration facility at 1100 Connecticut Avenue NW., Washington, DC in Suite 825 from 9:30 a.m. to 5:30 p.m., Monday through Friday except legal holidays.

FOR FURTHER INFORMATION CONTACT: Valerie O'Brian, Office of Redress Administration, Civil Rights Division, U.S. Department of Justice, Washington, DC 20530; (202) 633-5119 (Voice) or (202) 786-5986 (TDD). These are not toll free numbers.

SUPPLEMENTARY INFORMATION:**I. Background**

The Civil Liberties Act of 1988 enacts into law the recommendations of the Commission on Wartime Relocation and Internment of Civilians established by Congress in 1980 (Pub. L. 96-317). This bipartisan Commission was established to review the facts and circumstances surrounding Executive Order 9066.

issued February 19, 1942, and the impact of that Executive Order on American citizens and permanent resident aliens of Japanese ancestry; to review directives of United States military forces requiring the relocation, and in some cases, detention in internment camps of these American citizens and permanent resident aliens; and to recommend appropriate remedies. The Commission submitted to Congress in February, 1983, a unanimous report, *Personal Justice Denied*, which extensively reviewed the history and circumstances of the decisions to exclude, remove and then to detain Japanese Americans and Japanese resident aliens from the West Coast, as well as the treatment of the Aleuts during World War II. The final part of the Commission's report, *Personal Justice Denied Part 2:*

Recommendations, concluded that these events were influenced by racial prejudice, war hysteria, and a failure of political leadership, and recommended remedial action to be taken by the Congress and the President.

On August 10, 1988, President Ronald Reagan signed the Civil Liberties Act of 1988 into law. The purposes of the Act are to acknowledge and apologize for the fundamental injustice of the evacuation, relocation, and internment of Japanese Americans and permanent resident aliens of Japanese ancestry, to make restitution, and to fund a public education program to prevent the recurrence of any similar event in the future.

Section 105 of the Act assigned the Attorney General the responsibility and duties for the restitution provisions. The Attorney General delegated the responsibilities and duties assigned him by the Act to the Assistant Attorney General for Civil Rights, who, in turn, established the Office of Redress Administration in the Civil Rights Division to carry out the execution of the responsibilities and duties under the Act.

The Office of Redress Administration (ORA) is charged with the responsibility of identifying and locating persons eligible under the Act, without requiring any application for payment, within twelve months after the date of enactment of the Act (August 10, 1988), or within twelve months after the appropriation of funds necessary to complete the identification process. To date no appropriations have been made. It was estimated by the Commission on Wartime Relocation and Internment of Civilians that approximately 120,000 American citizens and permanent resident aliens of Japanese ancestry were affected by the exclusion. Of these,

an estimated 60,000 individuals survive and are eligible for redress payment.

In its efforts to identify and locate these individuals, the Office of Redress Administration has initiated a highly publicized outreach program to the Japanese American community to encourage those persons thought to be eligible to notify the Office with information concerning their eligibility and current residences. On September 19, 1988, the Office of Redress Administration announced the establishment of a toll free telephone number and a U.S. Post Office Box designed to accommodate individuals wishing to ask questions or volunteer information concerning their eligibility. This announcement also was publicized in Japanese American newspapers. The Office also placed its West Coast staff in San Francisco, California, for ninety days in order to establish close working relationships with the leaders of Japanese American organizations to ensure that the Office would reach as many eligible persons as possible.

Section 105 of the Act also requires the Attorney General to notify each eligible individual in writing as to a determination of eligibility, and to authorize the payment of \$20,000 to each eligible individual. Payment will be made in the order of the date of birth pursuant to Section 105(b).

Therefore, when funds are appropriated, payment will be made to the oldest eligible individual living on the date of the enactment of the Act, August 10, 1988 (or his or her statutory heirs), who has been located by the Administrator at that time. Payments will continue to be made until all eligible persons have received payment. For this purpose, the Act specifies that a total of \$1,250,000,000 is to be placed in the United States Civil Liberties Public Education Fund from which payments may be made. Because the Act specifies that no more than \$500,000,000 may be appropriated in any one year, not all payments can be made at one time.

During the period of drafting the proposed regulations, many individuals and organizations in the Japanese American community contacted the Civil Rights Division to ask questions and express concern regarding the determination of eligibility. In response to these concerns the Division published a Notice in the Federal Register, 53 FR 41252 (October 20, 1988), inviting the public to submit comments during the proposed regulation's drafting period on three issues that seemed to be of major concern to the public. These issues pertained to the eligibility of minors who were relocated to Japan between

December 7, 1941 and September 2, 1945, persons of Japanese ancestry sent to the United States from other American republics during World War II as a result of international agreements, and voluntary evacuees who did not file "Change of Residence" cards.

In response to this Notice, the Office of Redress Administration received one hundred forty-eight comments regarding these and other issues of eligibility, all of which have been placed for public inspection in the public reading room of the ORA office. Some respondents were United States citizens of Japanese ancestry who were relocated to Japan without consent as minors during World War II. These individuals expressed the belief that their constitutional rights had been violated at the time and to exclude them now from compensation would brand them as disloyal Japanese Americans. Most other comments concerned the plight of individuals of Japanese ancestry from other American countries who were interned in the United States. Letters from those so interned, and others who were not, generally supported compensation to these persons. Comments regarding voluntary evacuees who did not file "Change of Residence" cards provided further evidence that verification of the status of these individuals will need to be done on a case by case basis in order to determine if such persons evacuated as a result of government action. Finally, the Office of Redress Administration received letters from Japanese American World War II veterans whose families had been evacuated. Some of these soldiers had been unable to return to unauthorized zones to protect their property, while others had been prohibited from visiting their families in relocation centers. These veterans voiced the concern that the Act might not include them as eligible.

In drafting the proposed regulations, the Division read and considered each comment. The decisions that the Division made in response to these comments were made on a thorough consideration of the merits of each point of view expressed in the comments.

On June 14, 1989, the Department of Justice published a Notice of Proposed Rulemaking (NPRM) for the implementation of section 105 of the Civil Liberties Act of 1988. 54 FR 25291. By July 14, 1989, the close of the comment period, the Division had received 157 comments, 146 from individuals, 9 from organizations representing the interests of Japanese Americans, and 2 from members of Congress. Of these comments, 130 were based on two form letters supporting

eligibility for three groups determined ineligible in the proposed regulation: Japanese American minors who were relocated to Japan during World War II, children of parents who had voluntarily evacuated from the excluded zones, and Latin American Japanese brought to the United States for internment during World War II. Thirteen other comments expressed concern that the requirements for documents for verification of identity were unduly burdensome.

The Division read and analyzed each comment. In response to these comments the Office of Redress Administration made changes to the proposed regulations incorporating suggestions where appropriate. However, such changes were not made on the basis of the number of comments addressing any one point but on a thorough consideration of the merits of the points of view expressed in the comments. Other non-substantive changes were made in order to provide further clarification of the implementation procedures.

II. Responses to Comments and Summary of the Regulations and Revisions

These regulations, which consist of five subparts, implement section 105 of the Act. Subpart A states the purpose of the regulation and defines key terms; subpart B lists the categories of individuals determined to be eligible or ineligible in accordance with the statute; subpart C establishes a procedure through which the Office of Redress Administration will identify and locate all eligible individuals; subpart D establishes the procedures for payment; and subpart E establishes an appeals process whereby an individual who is determined by the Redress Administrator to be ineligible may petition for a reconsideration of that finding.

The first issue of eligibility is concerned with the statutory threshold requirement that an eligible person be an individual of "Japanese ancestry." Records of the evacuation period indicate that there were approximately 80 non-Japanese who were interned with their Japanese American spouses or children. (It is estimated that perhaps 40 such persons are still living.) The Government required these persons to sign a waiver of their rights as non-excluded individuals in order to accompany spouses or children to assembly centers and relocation camps. These wives, husbands and parents executed WPC Form PM-7, "Request and Waiver of Non-Excluded Person," which requested leave to accompany a member of his or her family through all

the stages of evacuation and internment as if they were persons of Japanese ancestry. In reality these non-Japanese spouses and parents were confronted by a horrifying choice. They could either "elect" to accompany their spouses or children throughout the removal and internment process, or choose to be separated from them. In the event that there was no Japanese parent or adult relative to accompany the child the Government policy was to take the part-Japanese child and place him or her in an institution and later transfer the child to the Children's Center under the supervision of the War Relocation Authority at Manzanar, California. Obviously, every human instinct would compel these parents to "elect" evacuation.

Unfortunately, however, section 108(2) of the Civil Liberties Act of 1988 limits the definition of an "eligible individual" specifically to "any individual of Japanese ancestry." Indeed, the focus throughout the Act is on those of Japanese ancestry and the discrimination they suffered based on their race. In light of the specificity with which Congress has spoken and its focus on the racial discrimination suffered, it must be concluded that the statute authorizes compensation be paid only to those of Japanese ancestry, and not to those who are of non-Japanese ancestry but who were nevertheless interned.

Although the phrase "of Japanese ancestry" in the Civil Liberties Act of 1988 cannot be interpreted in the regulation to include non-Japanese family members for purposes of compensation, it is undeniable that these individuals suffered the very injury that the Civil Liberties Act of 1988 is designed to redress and compensate, and that they should be compensated. Therefore, the Department will submit legislation to the Congress to amend the Civil Liberties Act of 1988 to render eligible those non-Japanese family members who suffered the effects of the government's internment policy by accompanying their spouses or children of Japanese ancestry through the evacuation and internment process.

A second area of inquiry regarding eligibility pertains to the method of confinement. It is clear from the findings by the Commission on Wartime Relocation of Civilians that the evacuation, relocation or internment of the Japanese Americans and Japanese resident aliens was not a single uniform action. Indeed, in section 108(2)(B)(i) (I)-(III) Congress specifically included language to ensure that the Act covered individuals confined, held in custody,

relocated, or "otherwise deprived of liberty or property" as a result of any action taken by the United States or its agents solely on the basis of Japanese ancestry during the period from December 7, 1941 to June 30, 1946. Therefore, in addition to persons deprived of liberty or property solely on the basis of Japanese ancestry by placement in relocation centers under the supervision of the Wartime Relocation Authority, or in camps under the authority of the Department of Justice or the U.S. Army, others who were deprived of liberty by other Government actions would also be eligible. As the discussion below illustrates, the language "otherwise deprived of liberty or property as a result (of government actions)" may be interpreted to include several categories of individuals. One example of a deprivation of liberty could be institutionalized persons who were unable to evacuate from the prohibited areas and were placed in the custody of the Wartime Relocation Authority.

In addition, some individuals who were members of the U.S. Armed Forces on or before mandatory evacuation on March 31, 1942, and not discharged from duty by that date, and whose domiciles were in excluded areas, could be determined to be eligible under section 108(2)(B)(i) as persons "otherwise deprived of liberty or property" as a result of the acts enumerated in subsections (I), (II), and (III). The Western Defense Command Public Proclamation No. 11, dated August 18, 1942, excluded all Japanese citizens and aliens from Military Area No. 1 and the California portion of Military Area No. 2 without first securing written permission of the Western Defense Command. As a result, there were some soldiers who were unable to re-enter unauthorized zones and safeguard their property. Such persons, as well as those whose property was confiscated by the government, could be considered to have been "deprived of property" as a result of the exclusion policy.

The issue concerning deprivation of property was raised in the Attorney General Adjudication for the Japanese American Evacuation Act of 1948. In *Hirotohi Oda*, 1 Adjudications of the Attorney General 361 (No. 146-35-16597, November 5, 1954), it was held that persons of Japanese ancestry who were members of the Armed Forces and sustained property losses as a result of the exclusion policy were as much entitled to compensation under the Act as if they had been evacuated to assembly centers and relocation centers with the other members of their families.

In light of the statutory language of the 1988 Act and the expressed purpose of that Act, such persons may be eligible for redress.

Finally, some Japanese American soldiers were "deprived of liberty" by virtue of the fact that regulations prohibited them from entering relocation centers to visit their family members or forced Japanese American soldiers to submit to undue restrictions amounting to a deprivation of liberty prior to visiting their families. (This group could also include a small percentage of members of the United States Armed Forces of Japanese ancestry from Hawaii whose families were interned.) One respondent questioned the singling out of the members of the military for eligibility and not other non-military persons of Japanese ancestry who were temporarily outside the prohibited zone and who may also have sustained property losses as a result of exclusion policy. We note that the regulations specifically set forth two categories of eligibility for the military, § 74.3 (b)(4) and (b)(5); however, the regulations also provide in § 74.3(c) that other individuals may be determined eligible under the Act on a case-by-case basis.

Another major issue of eligibility concerns those persons who were not interned but who evacuated their places of residence during the evacuation, relocation and internment period. The central question in determining eligibility in such cases is whether the individuals concerned evacuated their places of residence "as a result of" one or other of the statutorily specified types of governmental action. See section 108(2)(B). Thus, if the individuals in question were ordered by the military to evacuate an area, their evacuation was clearly a result of a governmental action. Similarly, if they evacuated in order to avoid internment, their evacuation resulted from governmental action. In contrast, if they evacuated voluntarily, not in response to any governmental order, it would seem that they are not eligible.

Some individuals evacuated as a result of specific governmental or military directives. President Roosevelt's Executive Order 9066, empowering the Secretary of War and the Military Commanders whom he might designate to prescribe military areas from which "any and all persons may be excluded" was issued on February 19, 1942. However, even as early as December 7, 1941, agents of the government were taking custody of enemy aliens, including Japanese. On January 29, 1942, the Department of Justice announced the first of a series of

zones prohibited to enemy aliens on the West Coast, ordering such persons not to enter or remain in such areas after February 24, 1942. On February 10, 1942, the Department of Justice warned all Japanese aliens (of a total Japanese and Japanese American population of about 3,500) to evacuate Terminal Island, near Los Angeles. That evacuation took place, under orders of the Navy, on February 25, 1942. Apart from these early evacuations preceding Executive Order 9066, there was at least one later case of evacuations undertaken in response to a specific military directive. On March 24, 1942, after the issuance of Executive Order 9066, but before evacuation from Military Area No. 1 was required by orders of the West Coast Military Commander, persons of Japanese ancestry were ordered to evacuate Bainbridge Island, near Seattle.

The statute reaches all of the above-described situations. Even assuming that none of these evacuations "resulted from" Executive Order 9066, section 108(2)(B)(i)(III) declares evacuees eligible if their relocation resulted from any "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." Thus, actions of the Department of Justice, the Federal Bureau of Investigation, the Army, the Navy, or any other federal entity, to exclude, relocate or intern persons of Japanese descent, whether taken pursuant to Executive Order 9066 or not, provide the basis for eligibility for these groups of evacuees.

Another group of persons involuntarily evacuated who are deemed eligible under the regulations consist of those who left their places of residence on the West Coast between March 2, 1942, the issuance of Public Proclamation No. 1, and March 29, 1942, the date on which the Public Proclamation No. 4 took effect whereby persons of Japanese ancestry were prohibited from leaving parts of the West Coast area because the Government was preparing to forcibly relocate them later. Section 108(2)(B)(ii) of the Act defines as eligible one who "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." The Conference Report explains this language as a reference to some 4,889 Japanese Americans who left the West Coast during the so-called "voluntary" phase of the Government's evacuation program, and who filed "Change of

Residence" cards with the Wartime Civil Control Administration: "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.' " While some individuals may have evacuated after March 2, 1942, but not have been enrolled on such cards, they may be determined on a case by case basis to be eligible if such persons were directly ordered by the Government to evacuate. (Clearly, any person of Japanese ancestry who was evacuated from an excluded zone after March 29, 1942 is eligible, since such an evacuation would have been a "result" either of Executive Order 9066 or of a military directive issued pursuant to it.)

There remain those cases, if any, of evacuations occurring before March 2, 1942, but not in response to a governmental order directed specifically at the evacuees. We believe that if there are any such evacuees, they cannot be considered eligible.

The Office of Redress Administration also received comments pertaining to the eligibility of certain categories of persons who were minors during the internment period. We received 63 comments stating that Japanese American children born after the parents had voluntarily relocated from the prohibited zones or had departed from relocation centers or internment camps should be eligible. While children born in assembly centers, relocations camps and internment camps are included as eligible for compensation, the regulations do not include as eligible children born after their parents had voluntarily relocated from prohibited military zones or from assembly centers, relocation camps, or internment camps.

One comment pointed out that children of Japanese ancestry born in internment camps during the internment period were not specifically listed in the regulations. Such persons were intended to be included as eligible in the proposed regulations and therefore, § 74.3(b)(7) has been amended to include as eligible children of Japanese ancestry born in the internment camps during the internment period in addition to those born in assembly centers and relocation camps.

A unique eligibility issue pertains to minors who were relocated to Japan during the period beginning on December 7, 1941 and ending on September 2, 1945. Records indicate that some minors who were United States citizens were relocated with their families during this period. The Division

received 61 comments in support of the eligibility of these minors. However, in implementing section 105 of the Act, the Department must follow the clearly restrictive language in section 108(2) that specifically excludes 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. Consequently, the exclusionary language of the Act would preclude from eligibility the minors, as well as adults, who were relocated to Japan during that particular time period.

The last major eligibility issue pertains to persons of Japanese ancestry who were sent to the United States from other American countries for restraint and repatriation pursuant to international commitments of the United States Government for the security of the United States and its associated powers. We received 77 comments advocating that all such individuals should be eligible for redress. The plight of these persons is described in the Appendix to Part I of *Personal Justice Denied*. Although these individuals were evacuated, relocated or interned similarly to those of Japanese ancestry evacuated from the West Coast, the statute's threshold requirement that an eligible person must be a citizen of the United States or a permanent resident alien excludes most of these persons from redress payment. Records indicate that the people who entered the United States under these international agreements were determined by the Department of Justice to be illegal aliens. As such, they were not lawfully admitted to the United States for permanent residence. Consequently, the restrictive language of the Act pertaining to citizenship status renders such persons ineligible. On the other hand, after World War II some of the Latin American Japanese who were brought to the United States from other American republics for internment were permitted, under applicable statutes, to apply to the Attorney General of the United States for an adjustment of their immigration status; these individuals obtained the status of permanent resident alien extending retroactively to the internment period. Such persons would meet the threshold statutory requirement under the regulations of being permanent resident aliens during the evacuation, relocation and internment period and, as such, be eligible for compensation. In addition, children born in the United States to the Latin American Japanese during their internment would, by virtue of their place of birth, be United States citizens

and therefore meet the threshold requirement for eligibility.

While this preamble has endeavored to discuss eligibility issues of public concern, § 74.3 of the regulations specifically sets forth those categories of individuals who are eligible or ineligible for compensation under Section 105 of the Act.

II. Verification Procedures

The Act forbids the Government from requiring persons to file claims for redress payments, but states that the Attorney General shall locate and identify all eligible persons by using records already in the possession of the United States Government. However, any eligible person is free to notify the Attorney General and advise him of the individual's claim of eligibility. In addition to using Federal Government records, 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 Government. Section 74.5 describes the official and unofficial sources that the Government anticipates using for identification and location of eligible persons. Section 74.6 describes the procedures whereby the Office shall endeavor to locate eligible individuals.

All information compiled in these files is subject to the statutory mandates of the Privacy Act. Therefore, the Civil Rights Division is prohibited from using or releasing this information for purposes other than those described in the Division's Privacy Act Notice of Records Systems. 54 FR 13252.

After an individual is determined to be eligible, the regulations provide for a letter of notification to be sent to the individual to notify him or her of a preliminary finding of eligibility. (§ 74.7) Enclosed with the letter will be a form and a request for documentation. The Division attached draft forms which were appended to the proposed regulations as Appendix A to Part 74. The forms are unsworn declarations under penalty of perjury. (28 U.S.C. 1746) The purpose of these forms and the requests for documentation is to verify the identity of the individuals eligible for redress in order to prevent fraud or duplication of payments.

We received 13 comments pertaining to our requests for documentation. These letters expressed concern that the requirements to submit *original* documents, particularly to document the date of birth of a candidate are unduly burdensome. In response to such comments § 74.7(b) has been amended to eliminate the requirement of

submission of a photo identification with the current legal name. In addition, documentation requirements in Appendix A to Part 74 have been modified to accept certified copies in lieu of original records as evidence of birth or current legal name and address. Furthermore, we have waived the documentation of date of birth for persons whose identification has been confirmed by the Social Security Administration (SSA). (We estimate that SSA has confirmed over one-third of the possible 60,000 surviving eligible persons.) Finally, ORA will establish a telephone number for persons to call for advice about documentation.

III. Notification and Payment

Upon receipt of a person's unsworn declaration and documentation, the Redress Administrator will make a final determination of eligibility for payment and notify the individual in writing of his finding. (§ 74.8) As required by statute, a person determined to be eligible has up to eighteen months after notification to accept payment. The statute states that a person who accepts payment waives all claims against the United States arising from government actions described in the Act. The regulations also incorporate the statutory requirement that the refusal to accept payment by a person determined to be eligible must be in writing and such refusal will be final for that person and his or her survivors. (§ 74.11)

After funds have been appropriated and actual payments are to be made, the Assistant Attorney General for Civil Rights will certify authorization for payment to the Assistant Attorney General for Justice Management, who will give final authorization to the Secretary of the Treasury. (§ 74.10) Payments will be made beginning with the oldest living eligible person that has been identified at the date the notice goes out, or his or her survivors, until all eligible persons have received payment. (§ 74.12) In accordance with the statute, the categories of survivors who can receive redress payments are limited to spouses, children, and parents. (§ 74.13) The methods for establishing proof of relationship to the deceased eligible person are set forth in § 74.14.

IV. Appeal Procedures

In order to fairly resolve those cases in which the Administrator makes a determination of ineligibility, the regulations have established an appeal process. When an individual is notified in writing of the Administrator's finding of ineligibility and reason or reasons for the finding, the letter also shall inform the individual that he or she may

petition for a reconsideration of the determination of ineligibility to the Assistant Attorney General for Civil Rights, or the official designated by the Assistant Attorney General for Civil Rights, and that he or she has the right to submit documentation in support of his or her claim of eligibility. (§ 74.15) The regulations also provide procedures for filing a request for reconsideration. (§ 74.16)

Section 74.17 describes the appeal procedure whereby the Assistant Attorney General for Civil Rights, or the official designated to act on his behalf, reviews the determination of the Redress Administrator and any documentation submitted by the requester, and then notifies the requester of his or her decision to reverse or affirm the Redress Administrator's determination of ineligibility. The decision shall constitute the final action of the Department on that appeal.

Finally, non-substantive changes have been made throughout the regulations in response to comments in order to further clarify the verification and documentation procedures.

V. Regulatory Impact Analysis

This rule is not a major rule within the meaning of Executive Order 12291 (46 FR 13193, 3 CFR 1981 Comp. p.127). Moreover, a regulatory flexibility analysis has not been prepared under the Regulatory Flexibility Act (5 U.S.C. 601-612), because the rule is unlikely to have a significant economic impact on a substantial number of small entities.

List of Subjects in 28 CFR Part 74

Administrative practice and procedure, Aliens, Archives and records, Citizenship and naturalization, Civil rights, Indemnity payments, Minority groups, Nationality, War claims.

For the reasons set forth in the preamble and by the authority vested in me including 28 U.S.C. 509 and 510, chapter I of title 28 of the Code of Federal Regulations is amended by adding part 74 to read as follows:

PART 74—CIVIL LIBERTIES ACT REDRESS PROVISION

Subpart A—General.

- Sec.
74.1 Purpose.
74.2 Definitions.

Subpart B—Standards of Eligibility

- 74.3 Eligibility determinations.
74.4 Individuals excluded from compensation pursuant to section 108(B) of the Act.

Subpart C—Verification of Eligibility

- 74.5 Identification of eligible persons.
74.6 Location of eligible persons.

Subpart D—Notification and Payment

- 74.7 Notification of eligibility.
74.8 Notification of payment.
74.9 Conditions of acceptance of payment.
74.10 Authorization for payment.
74.11 Effect of refusal to accept payment.
74.12 Order of payment.
74.13 Payment in the case of a deceased eligible individual.
74.14 Determination of the relationship of statutory heirs.

Subpart E—Appeal Procedures

- 74.15 Notice of the right to appeal a finding of ineligibility.
74.16 Procedures for filing an appeal.
74.17 Action on appeal.

Appendix A to Part 74—Declarations of Eligibility by Persons Identified by the Office of Redress Administration and Requests for Documentation.

Authority: 50 U.S.C. app. 1989b.

Subpart A—General

§ 74.1 Purpose.

The purpose of this part is to implement section 105 of the Civil Liberties Act of 1988, which authorizes the Attorney General to locate, identify, and make payments to all eligible individuals of Japanese ancestry who were evacuated, relocated, and interned during World War II as a result of government action.

§ 74.2 Definitions.

(a) *The Act* means the Civil Liberties Act of 1988, Pub. L. 100-383, 102 Stat. 903, as codified at 50 U.S.C. app. 1989b et seq., (August 10, 1988).

(b) *The Administrator* means the Administrator in charge of the Office of Redress Administration of the Civil Rights Division.

(c) *Assembly centers and relocation centers* means those facilities established pursuant to the acts described in § 74.4(i)-(ii).

(d) *Child of an eligible individual* means a recognized natural child, an adopted child, or a step-child who lived with the eligible person in a regular parent-child relationship.

(e) *The Commission* means the Commission on Wartime Relocation and Internment of Civilians established by the Commission on Wartime Relocation and Internment Act, 50 U.S.C. app. 1981 note.

(f) *Evacuation, relocation, and internment period* means that period beginning December 7, 1941, and ending June 30, 1946.

(g) *The Fund* means the Civil Liberties Public Education Fund in the Treasury

of the United States administered by the Secretary of the Treasury pursuant to section 104 of the Civil Liberties Act of 1988.

(h) *The Office* means the Office of Redress Administration established in the Civil Rights Division of the U.S. Department of Justice to execute the responsibilities and duties assigned the Attorney General pursuant to Section 105 of the Civil Liberties Act of 1988.

(i) *Parent of an eligible individual* means the natural father and mother, or fathers and mothers through adoption.

(j) *The Report* means the published report by the Commission on Wartime Relocation and Internment of Civilians of its findings and recommendations entitled, *Personal Justice Denied*, Part I and Part II.

(k) *Spouse of an eligible individual* means a wife or husband of an eligible individual who was married to that eligible person for at least one year immediately before the death of the eligible individual.

Subpart B—Standards of Eligibility

§ 74.3 Eligibility determinations.

(a) An individual is found to be eligible if such an individual:

- (1) Is of Japanese ancestry; and
- (2) Was living on the date of enactment of the Act, August 10, 1988; and
- (3) During the evacuation, relocation, and internment period was—
 - (i) A United States citizen; or
 - (ii) A permanent resident alien who was lawfully admitted into the United States; or
 - (iii) An alien, who after the evacuation, relocation and internment period, was permitted by applicable statutes to obtain the status of permanent resident alien extending to the internment period; and
- (4) Was confined, held in custody, relocated, or otherwise deprived of liberty or property as a result of—
 - (i) Executive Order 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, leaving, or committing any act in military areas or zones," approved March 21, 1942; 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.

(b) The following individuals are deemed to have suffered a loss within the meaning of paragraph (a)(4) of this section:

(1) Individuals who were interned under the supervision of the wartime Relocation Authority, the Department of Justice or the United States Army; or

(2) Individuals enrolled on the records of the United States Government during the period beginning on December 7, 1941, and ending June 30, 1946, as being in a prohibited military zone, including those individuals who, during the voluntary phase of the government's evacuation program between the issuance of Public Proclamation No. 1 on March 2, 1942, and the enforcement of Public Proclamation No. 4 on March 29, 1942, filed a "Change of Residence" card with the Wartime Civil Control Administration; or

(3) Individuals ordered by the Navy to leave Bainbridge Island, off the coast of the State of Washington, or Terminal Island, near San Pedro, California; or

(4) Individuals who were members of the Armed Forces of the United States at the time of the evacuation and internment period and whose domicile was in a prohibited zone and as a result of the government action lost property; or

(5) Individuals who were members of the Armed Forces of the United States at the time of the evacuation and internment period and were prohibited by government regulations from visiting their interned families or forced to submit to undue restrictions amounting to a deprivation of liberty prior to visiting their families; or

(6) Individuals who, after March 29, 1942, evacuated and relocated from the West Coast as a result of government action, including those who obtained written permission to travel to a destination outside of the unauthorized areas from the Western Defense Command and the Fourth Army; or

(7) Individuals born in assembly centers, relocation centers or internment camps to parents of Japanese ancestry who had been evacuated, relocated or interned pursuant to paragraph (a)(4) of this section, including children born in the United States to parents of Japanese ancestry who were relocated to the United States from other countries in the Americas during the internment period; or

(8) Individuals who, prior to or at the time of evacuation, relocation or internment period, were in institutions, such as a hospital, pursuant to acts described in paragraph (a)(4) and, were placed under the custody of the Wartime Relocation Authority and confined within the grounds of the

institution and not permitted to return to their homes or to go anywhere else.

(c) Paragraph (b) of this section is not an exhaustive list of individuals who are deemed eligible for compensation; there may be other individuals determined to be eligible under the Act on a case-by-case basis by the Redress Administrator.

§ 74.4 Individuals excluded from compensation pursuant to section 108(B) of the Act.

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.

Subpart C—Verification of Eligibility

§ 74.5 Identification of eligible persons.

(a) The Office shall establish an information system with names and other identifying information of potentially eligible individuals from the following sources:

- (1) Official sources:
 - (i) The National Archives;
 - (ii) The Department of Justice;
 - (iii) The Social Security Administration;
 - (iv) Internal Revenue Service;
 - (v) University libraries;
 - (vi) State and local libraries;
 - (vii) State and local historical societies;
 - (viii) State and local agencies.
- (2) Unofficial sources:
 - (i) Potentially eligible individuals;
 - (ii) Eligible individuals, relatives, legal guardians, representatives, or attorneys;
 - (iii) Civic Associations;
 - (iv) Religious organizations;
 - (v) Such other sources that the Administrator determines are appropriate.

(b) Historic information pertaining to individuals listed in official United States Government records will be analyzed to determine if such persons are eligible for compensation as set forth in section 108 of the Act.

(c) Persons not listed in the historic records of the United States Government who volunteer information pertaining to their eligibility may be required by the Administrator to submit affidavits and documentary evidence to support assertions of eligibility.

§ 74.6 Location of eligible persons.

The Office shall compare the names and other identifying information of eligible individuals from the historical official records of the United States Government with current information from both official and unofficial sources

in the information system to determine if such persons are living or deceased and, if living, the present location of these individuals.

Subpart D—Notification and Payment

§ 74.7 Notification of eligibility.

(a) Each individual who has been found to be eligible or their statutory heirs will be sent written notification of such status by the Office. Enclosed with the notification will be a declaration to be completed by the person so notified, or by his or her legal guardian, and a request for documentation of identity.

(b) The declaration and submitted documents (Appendix A to part 74) will be used for a final verification of eligibility in order to ensure that the person identified as eligible by the Office is in fact the person who will receive payment, and shall include a request for the following information:

- (1) Current legal name;
- (2) Proof of name change if the current legal name is different from the name used when evacuated or interned, such as a marriage certificate or other evidence of the name change as described in Appendix A;
- (3) Date of birth;
- (4) Proof of date of birth as set forth in Appendix A;
- (5) Current address;
- (6) Proof of current address as set forth in Appendix A;
- (7) Current telephone number;
- (8) Social Security Number;
- (9) Name when evacuated or interned;
- (10) Proof of guardianship by a person executing a declaration on behalf of an eligible person as set forth in Appendix A.
- (11) Proof of the relationship to a deceased eligible individual by a statutory heir as set forth in § 74.13 and Appendix A;
- (12) Proof of the death of a deceased eligible person as set forth in Appendix A.

(c) The individual must submit a signed and dated statement swearing under penalty of perjury to the truth of all the information provided on the declaration. A natural or legal guardian, or any other person, including the spouse of an eligible person, who the Administrator determines is charged with the care of the individual, may submit a signed and dated statement on behalf of the eligible individual who is incompetent or otherwise under a legal disability.

(d) Upon receipt of an individual's declaration and documentation, the Administrator shall make a determination of verification of the identity of the eligible person.

(e) Each person determined not to be preliminarily eligible after review of the submitted documentation will be notified by the Redress Administrator of the finding of ineligibility and the right to petition for a reconsideration of such a finding.

§ 74.8 Notification of payment.

The Administrator shall, when funds are appropriated for payment, notify an eligible individual in writing of his or her eligibility for payment. Section 104 of the Act limits any appropriation to not more than \$500,000,000 for any fiscal year.

§ 74.9 Conditions of acceptance of payment.

(a) Each eligible individual will be deemed to have accepted payment if, after receiving notification of eligibility from the Redress Administrator, the eligible individual does not refuse payment in the manner described in § 74.11.

(b) Acceptance of payment shall be in full satisfaction of all claims arising out of the acts described in § 74.3(a)(4).

§ 74.10 Authorization for payment.

(a) Upon determination by the Administrator of the eligibility of an individual, the authorization for payment of \$20,000 to the eligible individual will be certified by the Assistant Attorney General of the Civil Rights Division to the Assistant Attorney General of the Justice Management Division, who will give final authorization to the Secretary of the Treasury for payment out of the funds appropriated for this purpose.

(b) Authorization of payments made to survivors of eligible persons will be certified in the manner described in paragraph (a) of this section to the Secretary of the Treasury for payment to the individual member or members of the class of survivors entitled to receive payment under the procedures set forth in § 74.13. Payments to statutory heirs of a deceased eligible individual will be made only after all the statutory heirs of the deceased person have been identified and verified by the Office.

(c) Any payment to an eligible person under a legal disability, may, in the discretion of the Assistant Attorney General for Civil Rights, be certified for payment for the use of the eligible person, to the natural or legal guardian, committee, conservator or curator, or, if there is no such natural or legal guardian, committee, conservator or curator, to any other person, including the spouse of such eligible person, who the Administrator determines is charged with the care of the eligible person.

§ 74.11 Effect of refusal to accept payment.

If an eligible individual who has been notified by the Administrator of his or her eligibility refuses in writing within eighteen months of the notification to accept payment, the written record of refusal will be filed with the Office and the amount of payment as described in § 74.10 shall remain in the Fund and no payment may be made as described in § 74.12 to such individual or his or her survivors at any time after the date of receipt of the written refusal.

§ 74.12 Order of payment.

Payment will be made in the order of date of birth pursuant to section 105(b) of the Act. Therefore, when funds are appropriated, payment will be made to the oldest eligible individual living on the date of the enactment of the Act, August 10, 1988, (or his or her statutory heirs) who has been located by the Administrator at that time. Payments will continue to be made until all eligible individuals have received payment.

§ 74.13 Payment in the case of a deceased eligible individual.

In the case of an eligible individual as described in § 74.3 who is deceased, payment shall be made only as follows—

(a) 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.

(b) If there is no surviving spouse as described in paragraph (a) of this subsection, such payment shall be made in equal shares to all children of the eligible individual who are living at the time of payment.

(c) If there is no surviving spouse described in paragraph (a) of this section, and if there are no surviving children as described in paragraph (b) of this section, such payment shall be made in equal shares to the parents of the deceased eligible individual who are living at the time of payment.

(d) If there are no surviving spouses, children or parents as described in paragraphs (a), (b), and (c) of this section, the amount of such payment shall remain in the Fund and may be used only for the purposes set forth in section 106(b) of the Act.

§ 74.14 Determination of the relationship of statutory heirs.

(a) A spouse of a deceased eligible individual must establish his or her marriage by one (or more) of the following:

- (1) A copy of the public record of marriage, certified or attested;

(2) An abstract of the public record, containing sufficient data to identify the parties, the date and place of marriage, and the number of prior marriages by either party if shown on the official record, issued by the officer having custody of the record or other public official authorized to certify the record;

(3) A certified copy of the religious record of marriage;

(4) The official report from a public agency as to a marriage which occurred while the deceased eligible individual was employed by such agency;

(5) An affidavit of the clergyman or magistrate who officiated;

(6) The original certificate of marriage accompanied by proof of its genuineness;

(7) The affidavits or sworn statements of two or more eyewitnesses to the ceremony;

(8) In jurisdictions where "Common Law" marriages are recognized, the affidavits or certified statements of the spouse setting forth all of the facts and circumstances concerning the alleged marriage, such as the agreement between the parties at the beginning of their cohabitation, places and dates of residences, and whether children were born as the result of the relationship. This evidence should be supplemented by affidavits or certified statements from two or more persons who know as the result of personal observation the reputed relationship which existed between the parties to the alleged marriage, including the period of cohabitation, places of residences, whether the parties held themselves out as husband and wife and whether they were generally accepted as such in the communities in which they lived; or

(9) Any other evidence which would reasonably support a finding by the Administrator that a valid marriage actually existed.

(b) A child should establish that he or she is the child of a deceased eligible individual by one of the following types of evidence:

(1) A birth certificate showing that the deceased eligible individual was the child's parent;

(2) An acknowledgment in writing signed by the deceased eligible individual;

(3) Evidence that the deceased eligible individual has been identified as the child's parent by a judicial decree ordering the deceased eligible individual to contribute to the child's support or for other purposes; or

(4) Any other evidence that reasonably supports a finding of a parent-child relationship, such as—

(i) A certified copy of the public record of birth or a religious record

showing that the deceased eligible individual was the informant and was named as the parent of the child;

(ii) Affidavits or sworn statements of a person who knows that the deceased eligible individual accepted the child as his or hers; or

(iii) Information obtained from public records or a public agency, such as school or welfare agencies, which shows that with the deceased eligible individual's knowledge, the deceased eligible individual was named as the parent of the child.

(c) Except as may be provided in paragraph (b) of this section, evidence of the relationship by an adopted child must be shown by a certified copy of the decree of adoption. In jurisdictions where petition must be made to the court for release of adoption documents or information, or where the release of such documents or information is prohibited, a revised birth certificate will be sufficient to establish the fact of adoption.

(d) The relationship of a step-child to a deceased eligible individual shall be demonstrated by—

(1) Evidence of birth to the spouse of the deceased eligible individual as required by paragraphs (e) and (f) of this section;

(2) Evidence of adoption as required by section (b) of this section when the step-child was adopted by the spouse;

(3) Other evidence which reasonably supports the finding of a parent-child relationship between the child and the spouse;

(4) Evidence that the step-child was either living with or in a parent-child relationship with the deceased eligible individual at the time of the eligible individual's death; and

(5) Evidence of the marriage of the deceased eligible individual and the step-child's natural or adoptive parent, as required by paragraph (a) of this section.

(e) A parent of a deceased eligible individual may establish his or her parenthood of the deceased eligible individual by providing one of the following types of evidence:

(1) A birth certificate that shows the person to be the deceased eligible individual's parent;

(2) An acknowledgment in writing signed by the person before the eligible individual's death; or

(3) Any other evidence which reasonably supports a finding of such a parent-child relationship, such as—

(i) A certified copy of the public record of birth or a religious record showing that the person was the informant and was named as the parent of the deceased eligible individual;

(ii) Affidavits or sworn statements of persons who know the person had accepted the deceased eligible individual as his or her child; or

(iii) Information obtained from public records or a public agency such as school or welfare agencies, which shows that with the deceased eligible individual's knowledge, the person had been named as parent of the child.

(f) An adoptive parent of a deceased eligible individual must show one of the following as evidence—

(1) A certified copy of the decree of adoption and such other evidence as may be necessary; or

(2) In jurisdictions where petition must be made to the court for release of such documents or information, or where release of such documents or information is prohibited, a revised birth certificate showing the person as the deceased eligible individual's parent will suffice.

Subpart E—Appeal Procedures

§ 74.15 Notice of the right to appeal a finding of ineligibility.

Persons determined to be ineligible by the Administrator will be notified in writing of the determination, the right to petition for a reconsideration of the determination of ineligibility to the Assistant Attorney General for Civil Rights, and the right to submit any documentation in support of eligibility.

§ 74.16 Procedures for filing an appeal.

A request for reconsideration shall be made to the Assistant Attorney General for Civil Rights within 60 days of the receipt of the notice from the Administrator of a determination of ineligibility. The request shall be made in writing, addressed to the Assistant Attorney General of the Civil Rights Division, P.O. Box 65808, Washington, DC. 20035-5808. Both the envelope and the letter of appeal itself must be clearly marked: "Redress Appeal." A request not so addressed and marked shall be forwarded to the Office of the Assistant Attorney General for Civil Rights, or the official designated to act on his behalf, as soon as it is identified as an appeal of eligibility. An appeal that is improperly addressed shall be deemed not to have been received by the Department until the Office receives the appeal, or until the appeal would have been so received with the exercise of due diligence by Department personnel.

§ 74.17 Action on appeal.

(a) The Assistant Attorney General or the official designated to act on his behalf shall:

(1) Review the original determination;

(2) Review additional information or documentation submitted by the individual to support a finding of eligibility;

(3) Notify the petitioner when a determination of ineligibility is reversed on appeal; and

(4) Inform the Redress Administrator.

(b) Where there is a decision affirming the determination of ineligibility, the letter to the individual shall include a statement of the reason or reasons for the affirmance.

(c) A decision of affirmance shall constitute the final action of the Department on that redress appeal.

Appendix A to Part 74—Declarations of Eligibility by Persons Identified by the Office of Redress Administration and Requests for Documentation.

Form A:

Declaration of Eligibility by Persons Identified by the Office of Redress Administration

U.S. Department of Justice
Civil Rights Division
Office of Redress Administration

This declaration shall be executed by the identified eligible person or such person's designated representative.

Complete the following information:

(1) Current Legal Name: _____
(2) Current Address: _____
Street: _____
City, State and Zip Code: _____

(3) Telephone Number: _____
(Home)

(Business)
(4) Social Security Number: _____
(5) Date of Birth: _____
(6) Name Used When Evacuated or Interned: _____

Read the following carefully before signing this document. A False Statement may be grounds for punishment by fine (U.S. Code, title 31, section 3729), and fine or imprisonment or both (U.S. Code, title 18, section 287 and section 1001).

I declare under penalty of perjury that the foregoing is true and correct.

Signature _____

Date _____

Privacy Act Statement: The authority for collecting this information is contained in 50 U.S.C. app. 1989b. The information that you provide will be used principally for verifying eligible persons for payment under the restitution provision of the Civil Liberties Act of 1988.

Required Documentation: The following documentation must be submitted with the above Declaration to complete your verification.

DOCUMENTATION:

I. Identification

A document with your current legal name and address. For example, you might send a bank or financial statement, or a monthly

utility bill. Submit either a notarized copy of the record or an original that you do not need back.

II. One Document of Date of Birth

A certified copy of a birth certificate or a copy of another record of birth that has been certified by the custodian of the records. For example, you might send a religious record which shows your date of birth, or a hospital birth record. If you do not have any record of your birth the Administrator will accept affidavits of two or more persons attesting to the date of your birth.

If your notification letter says that the Social Security Administration has confirmed your date of birth, you *do not* have to send us any further evidence of your birth date.

III. One Document of Name Change

If your current legal name is the same as your name when evacuated or interned, this section does not apply.

This section is only required for persons whose current legal name is different from the name used when evacuated or interned.

1. A certified copy of the public record of marriage.
2. A certified copy of the divorce decree.
3. A certified copy of the court order of a name change.
4. Affidavits or sworn statements of two or more persons attesting to the name change.

IV. One Document of Evidence of Guardianship

If you are executing this document for the person identified as eligible, you must submit evidence of your authority.

If you are the legally-appointed guardian, committee, or other legally-designated representative of such an individual, the evidence shall be a certificate executed by the proper official of the court appointment.

If you are not such a legally-designated representative, the evidence shall be an affidavit describing your relationship to the recipient or the extent to which you have the care of the recipient or your position as an officer of the institution in which the recipient is institutionalized.

Form B:

Declaration of Verification by Persons Identified as Statutory Heirs by the Office of Redress Administration

U.S. Department of Justice
Civil Rights Division
Office of Redress Administration

This declaration shall be executed by the spouse of a deceased eligible individual as statutory heir in accordance with Section 105(a)(7) of the Civil Liberties Act of 1988, 50 U.S.C. app. 1989b.

Complete the following information:

(1) Current Legal Name: _____
(2) Current Address: _____
Street: _____
City, State and Zip Code: _____

(3) Telephone Number: _____
(Home)

(Business)
(4) Social Security Number: _____
(5) Date of Birth: _____

(6) Relationship to the Deceased: _____
(8) Date of marriage to the Deceased: _____

Read the following carefully before signing this document.

A False Statement may be grounds for punishment by fine (U.S. Code, Title 31, section 3729), and fine or imprisonment or both (U.S. Code, Title 18, sections 287 and Section 1001).

I declare under penalty of perjury that the foregoing is true and correct.

Signature _____

Date _____

Privacy Act Statement: The authority for collecting this information is contained in 50 U.S.C. app. 1989b. The information that you provide will be used principally for verifying eligible persons for payment under the restitution provision of the Civil Liberties Act of 1988.

Required Documentation: The following documentation must be submitted with the above Declaration to complete your verification.

DOCUMENTATION:

I. One Document as Evidence of the Deceased Eligible Individual's Death

1. A certified copy or extract from the public records of death, coroner's report of death, or verdict of a coroner's jury.
2. A certificate by the custodian of the public record of death.
3. A statement of the funeral director or attending physician, or intern of the institution where death occurred.
4. A certified copy, or extract from an official report or finding of death made by an agency or department of the United States.
5. If death occurred outside the United States, an official report of death by a United States Consul or other employee of the State Department, or a copy of public record of death in the foreign country.

6. If you cannot obtain any of the above evidence of your spouse's death, you must submit other convincing evidence to ORA such as the signed statements of two or more people with personal knowledge of the death, giving the place, date, and cause of death.

II. One Document as Evidence of Your Marriage to the Deceased Eligible Individual

1. A copy of the public records of marriage, certified or attested, or an abstract of the public records, containing sufficient data to identify the parties, the date and place of marriage, and the number of prior marriages by either party if shown on the official record, issued by the officer having custody of the record or other public official authorized to certify the record, or a certified copy of the religious record of marriage.
2. An official report from a public agency as to a marriage which occurred while the deceased eligible individual who was employed by such agency.
3. The affidavit of the clergyman or magistrate who officiated.
4. The certified copy of a certificate of marriage attested to by the custodian of the records.

5. The affidavits or sworn statements of two or more eyewitnesses to the ceremony.

6. In jurisdictions where "Common Law" marriages are recognized, the affidavits or certified statements of the spouse setting forth all of the facts and circumstances concerning the alleged marriage, such as the agreement between the parties at the beginning of their cohabitation, places and dates of residences, and whether children were born as the result of the relationship. This evidence should be supplemented by affidavits or certified statements from two or more persons who know as the result of personal observation the reputed relationship which existed between the parties to the alleged marriage, including the period of cohabitation, places of residences, whether the parties held themselves out as husband and wife and whether they were generally accepted as such in the communities in which they lived.

7. Any other evidence which would reasonably support a belief by the Administrator that a valid marriage actually existed.

III. Identification

A document with your current legal name and address. For example, you might send a bank or financial statement or a monthly utility bill. Submit either a notarized copy of the record or an original that you do not need back.

IV. One Document of Date of Birth

A certified copy of a birth certificate or a copy of another record of birth that has been certified by the custodian of the records. For example, you might send a copy of a religious record which shows your date of birth, or a hospital birth record. If you do not have any record of your birth, the Administrator will accept affidavits of two or more persons attesting to the date of your birth.

If your notification letter says that the Social Security Administration has confirmed your date of birth, you do not have to send us any further evidence of your birth date.

V. One Document of Name Change

If your current legal last name is the same as the last name of the deceased eligible individual or the same as at the time of marriage this section does not apply.

This section is only required for persons whose current legal last name is different from the last name of the deceased eligible.

1. A certified copy of the public record of marriage.
2. A certified copy of the divorce decree.
3. A certified copy of the court order of a name change.
4. Affidavits or sworn statements of two or more persons attesting to the name change.

VI. One Document of Evidence of Guardianship

If you are executing this document for the person identified as eligible, you must submit evidence of your authority.

If you are the legally-appointed guardian, committee, or other legally-designated representative of such an individual, the evidence shall be a certificate executed by the proper official of the court appointment.

If you are not such a legally-designated representative, the evidence shall be an

affidavit describing your relationship to the recipient or the extent to which you have the care of the recipient or your position as an officer of the institution in which the recipient is institutionalized.

Form C:

Declaration of Verification by Persons Identified by the Office of Redress Administration as Statutory Heirs
 U.S. Department of Justice
 Civil Rights Division
 Office of Redress Administration

This declaration shall be executed by the child of a deceased eligible individual as a statutory heir in accordance with section 105(a)(7) of the Civil Liberties Act of 1988, 50 U.S.C. app. 1988b.

Complete the following information:

- (1) Current Legal Name: _____
- (2) Current Address:
 Street: _____
 City, State and Zip Code: _____
- (3) Telephone Number: _____

(Home)

(Business)

- (4) Social Security Number: _____
- (5) Date of Birth: _____
- (6) Relationship to the Deceased: _____
- (7) List the names and address (if known) of all other children of the deceased eligible individual. This includes all recognized natural children, step-children who lived with the deceased eligible and adopted children. Enter the date of death for any persons who are deceased.

Read the following carefully before signing this document. A False Statement may be grounds for punishment by fine (U.S. Code, title 31, section 3729), and fine or imprisonment or both (U.S. Code, title 18, section 287 and section 1001).

I declare under penalty of perjury that the foregoing is true and correct.

Signature _____

Date _____

Privacy Act Statement: The authority for collecting this information is contained in 50 U.S.C. app. 1989b. The information that you provide will be used principally for verifying eligible persons for payment under the restitution provision of the Civil Liberties Act of 1988.

Required Documentation for Children of Deceased Eligible Individual

The following documentation must be submitted with the above Declaration to complete your verification.

DOCUMENTATION:

I. One Document as Evidence of Your Parent's Death

1. A certified copy or extract from the public records of death, coroner's report of death, or verdict of a coroner's jury.
2. A certificate by the custodian of the public record of death.

3. A statement of the funeral director or attending physician, or intern of the institution where death occurred.

4. A certified copy, or extract from an official report or finding of death made by an agency or department of the United States.

5. If death occurred outside the United States, an official report of death by a United States Consul or other employee of the State Department, or a copy of public record of death in the foreign country.

6. If you cannot obtain any of the above evidence of your parent's death, you must submit other convincing evidence to ORA such as the signed statements of two or more people with personal knowledge of the death, giving the place, date, and cause of death.

II. One Document as Evidence of Your Relationship to Your Parent

Natural Child

1. A certified copy of a birth certificate showing that the deceased eligible individual was your parent.

2. If the birth certificate does not show the deceased eligible individual as your parent, other proof would be a certified copy of:

- (a) An acknowledgment in writing signed by the deceased eligible individual.
- (b) A judicial decree ordering the deceased eligible individual to contribute to your support or for other purposes.
- (c) A certified copy of the public record of birth or a religious record showing that the deceased eligible individual was the informant and was named as your parent.
- (d) Affidavits or sworn statements of a person who knows that the deceased eligible individual accepted the child as his or hers.
- (e) A record obtained from a public agency or public records, such as school or welfare agencies, which shows that with the deceased eligible individual's knowledge, the deceased eligible individual was named as the parent of the child.

(e) A record obtained from a public agency or public records, such as school or welfare agencies, which shows that with the deceased eligible individual's knowledge, the deceased eligible individual was named as the parent of the child.

Adopted Child

Evidence of the relationship by an adopted child must be shown by a certified copy of the decree of adoption. In jurisdictions where petition must be made to the court for release of adoption documents or information, or where the release of such documents or information is prohibited, a revised birth certificate will be sufficient to establish the fact of adoption.

Step-Child

Submit all three as evidence of the step-child relationship.

1. One document as evidence of birth to the spouse of the deceased eligible individual as listed under the "natural child" and "adoptive child" sections to show that you were born to or adopted by the deceased individual's spouse, or other evidence which reasonably supports the existence of a parent-child relationship between you and the spouse of the deceased eligible person.

2. One document as evidence that you were either living with or in a parent-child relationship with the deceased eligible individual at the time of the eligible individual's death.

3. One document as evidence of the marriage of the deceased eligible individual

and the spouse, such as a copy of the record of marriage, certified or attested, or by an abstract of the public records, containing sufficient data to identify the parties and the date and place of marriage issued by the officer having custody of the record, or a certified copy of a religious record of marriage.

III. Identification

A document with your current legal name and address. For example, you might send a bank or financial statement, or a monthly utility bill. Submit either a notarized copy of the record or an original that you do not want back.

IV. One Document of Date of Birth

A certified copy of a birth certificate or a copy of another record of birth that has been certified by the custodian of the records. For example, you might send a copy of a religious record which shows your date of birth, or a hospital birth record. If you do not have any record of your birth, the Administrator will accept affidavits of two or more persons attesting to the date of your birth.

If your notification letter says that the Social Security Administration has confirmed your date of birth, you *do not* have to send us any further evidence of your birth date.

V. One Document of Name Change

If your current legal last name is the same as the last name of the deceased eligible, this section does not apply.

This section is only required for persons whose current legal last name is different from the last name of the deceased eligible.

Submit *one* of the following as evidence of the change of legal name.

1. A certified copy of the public record of marriage.
2. A certified copy of the divorce decree.
3. A certified copy of the court order of a name change.
4. Affidavits or sworn statements of two or more persons attesting to the name change.

VI. One Document of Evidence of Guardianship

If you are executing this document for the person identified as an eligible beneficiary, you must submit evidence of your authority.

If you are a legally-appointed guardian, committee, or other legally-designated representative of such an individual, the evidence shall be a certificate executed by the proper official of the court appointment.

If you are not such a legally-designated representative, the evidence shall be an affidavit describing your relationship to the recipient or the extent to which you have the care of the recipient or your position as an officer of the institution in which the recipient is institutionalized.

Form D:

Declaration of Verification by Persons Identified by the Office of Redress Administration as Statutory Heirs
U.S. Department of Justice Civil Rights Division Office of Redress Administration

This declaration shall be executed by the identified parent of a deceased eligible individual as statutory heir in accordance with

Section 105(a)(7) of the Civil Liberties Act of 1988, 50 U.S.C. app. 1989b.

Complete the following information:

- (1) Current Legal Name: _____
- (2) Current Address: _____
Street: _____
- (3) Telephone Number: _____
(Home) _____
(Business) _____
- (4) Social Security Number: _____
- (5) Date of Birth: _____
- (6) Relationship to the Deceased: _____
- (7) The name of the child's other parent and the address if known. This includes fathers and mothers through adoption. If the parent is deceased provide the date and place of death. _____

Read the following carefully before signing this document. A False Statement may be grounds for punishment by fine (U.S. Code, title 31, section 3729), and fine or imprisonment or both (U.S. Code, title 18, section 287 and section 1001).

I declare under penalty of perjury that the foregoing is true and correct.

Signature _____

Date _____

Privacy Act Statement: The authority for collecting this information is contained in 50 U.S.C. app. 1989b. The information that you provide will be used principally for verifying eligible persons for payment under the restitution provision of the Civil Liberties Act of 1988.

Required Documentation.

The following documentation must be submitted with the above Declaration to complete your verification.

DOCUMENTATION:

I. One Document as Evidence of Your Child's Death

1. A certified copy or extract from the public records of death, coroner's report of death, or verdict of a coroner's jury.
2. A certificate by the custodian of the public record of death.

3. A statement of the funeral director or attending physician, or intern of the institution where death occurred.

4. A certified copy, or extract from an official report or finding of death made by an agency or department of the United States.

5. If death occurred outside the United States, an official report of death by a United States Consul or other employee of the State Department, or a copy of public record of death in the foreign country.

6. If you cannot obtain any of the above evidence, you must submit other convincing evidence to ORA such as the signed statements of two or more people with personal knowledge of the death, giving the place, date, and cause of death.

II. One Document as Evidence of Your Parent-Child Relationship Natural Parent

1. A certified copy of a birth certificate that shows you to be the deceased eligible individual's parent.
2. A certified acknowledgment in writing signed by you before the eligible individual's death.
3. Any other evidence which reasonably supports a finding of such a parent-child

relationship, such as a certified copy of the public record of birth or a religious record showing that you were the informant and were named as the parent of the deceased eligible individual.

4. Affidavits or sworn statements of persons who know that you had accepted the deceased eligible individual as his or her child.

5. Information obtained from a public agency or public records, such as school or welfare agencies, which shows that with the deceased eligible individual's knowledge, you were named as parent.

Adoptive Parent

1. A certified copy of the decree of adoption and such other evidence as may be necessary.

2. In jurisdictions where petition must be made to the court for release of such documents or information, or where release of such documents or information is prohibited, a revised birth certificate showing the person as the deceased eligible individual's parent will suffice.

III. Identification

A document with your current legal name and address. For example, you might send a bank or financial statement, or a monthly utility bill. Submit either a notarized copy or an original that you do not need back.

IV. One Document of Date of Birth

A certified copy of a birth certificate or a copy of another record of birth that has been certified by the custodian of the records. For example, you might send a copy of a religious record which shows your date of birth, or a hospital birth record. If you do not have any record of your birth, the Administrator will accept affidavits of two or more persons attesting to the date of your birth.

If your notification letter says that the Social Security Administration has confirmed your date of birth, you *do not* have to send any further evidence of your birth date.

V. One Document of Name Change

If your current legal last name is the same as the last name of the deceased eligible individual this section does not apply.

This section is only required for persons whose current legal last name is different from the last name of the deceased eligible.

1. A certified copy of the public record of marriage.
2. A certified copy of the divorce decree.
3. A certified copy of the court order of a name change.
4. Affidavits or sworn statements of two or more persons attesting to the name change.

VI. One Document of Evidence of Guardianship

If you are executing this document for the person identified as eligible, you must submit evidence of your authority.

If you are the legally-appointed guardian, committee, or other legally-designated representative of such an individual, the evidence shall be a certificate executed by the proper official of the court appointment.

If you are not such a legally-designated representative, the evidence shall be an affidavit describing your relationship to the

recipient or the extent to which you have the care of the recipient or your position as an officer of the institution in which the recipient is institutionalized.

Approved the 10th day of August, 1989.

Dick Thornburgh,

Attorney General.

(FR Doc. 89-19362 Filed 8-17-89; 8:45 am)

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DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 938

Pennsylvania Regulatory Program; Civil Penalty Assessments

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSMRE), Interior.

ACTION: Final rule; approval of amendment.

SUMMARY: OSMRE is announcing the approval of an amendment to the Pennsylvania permanent regulatory program (hereinafter referred to as the Pennsylvania program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The amendment provides Pennsylvania's Department of Environmental Resources (DER) with the option to not assess a civil penalty for a Compliance Order violation when the calculated amount of the assessment is less than \$1,000 and the violation does not relate to a discharge. The amendment is intended to give greater discretion to the State regulatory authority while maintaining consistency with the corresponding Federal regulations.

EFFECTIVE DATE: August 18, 1989.

FOR FURTHER INFORMATION CONTACT: Robert J. Biggi, Director, Harrisburg Field Office, Office of Surface Mining Reclamation and Enforcement, Third Floor, Suite 3C, Harrisburg Transportation Center, 4th and Market Streets, Harrisburg, Pennsylvania 17101; Telephone: (717) 782-4036.

SUPPLEMENTARY INFORMATION:

- I. Background on the Pennsylvania Program
- II. Submission of Amendment
- III. Director's Findings
- IV. Disposition of Comments
- V. Director's Decision
- VI. Procedural Determinations

I. Background on the Pennsylvania Program

The Secretary of the Interior conditionally approved the Pennsylvania program on July 31, 1982.

Information on the general background of the Pennsylvania program submission, including the Secretary's findings, the disposition of comments, and a detailed explanation of the conditions of approval can be found in the July 30, 1982, *Federal Register* (47 FR 33050). Subsequent actions concerning the conditions of approval and program amendments are identified at 30 CFR 938.11, 938.12, 938.15 and 938.16.

II. Submission of Amendment

By letter dated August 17, 1988 (Administrative Record No. PA 699), Pennsylvania proposed to amend its Program Guidance Manual at Section 1:3:6, paragraph 4 by replacing the mandatory civil penalty provision for each Compliance Order violation with a discretionary civil penalty provision. Under the existing Pennsylvania program, all assessments for violations cited on Compliance Orders are mandatory, regardless of their nature.

Following receipt of the proposed amendment by OSMRE, the DER discovered that the State's Civil Penalty Program document at Section II, paragraph 4 had to be revised to reflect the proposed change in the Program Guidance Manual. A proposal to amend the Civil Penalty Program document was submitted to OSMRE by letter dated June 21, 1989 (Administrative Record Number PA 780). The substantive content of the proposed revision to the Civil Penalty Program document is identical to the proposed change in the Program Guidance Manual with the added limitation that the violation not be related to a discharge. OSMRE is therefore treating the August 17, 1988, and June 21, 1989, submissions as one amendment since they concern the same substantive issue.

OSMRE announced receipt of the proposed amendment in the October 6, 1988, *Federal Register* (53 FR 39316), and in the same notice, opened the public comment period and provided opportunity for a public hearing on the adequacy of the proposed amendment. Comments were not solicited on the June 21, 1989, submission because the change submitted by the State was considered to be within the scope of the original proposal.

III. Director's Findings

The mandatory civil penalty provision for a Compliance Order violation was approved as part of Pennsylvania's Civil Penalty Program on March 20, 1984 (49 FR 10253), along with other civil penalty provisions. At that time, the Secretary of the Interior found that the program and its accompanying policy statements and guidance manuals provided for civil and

criminal penalties no less stringent than those of Section 518 of SMCRA. The Secretary also found that the program's procedures for assessing and reviewing civil penalty assessments were the same as or similar to those in Section 518 of SMCRA and no less effective than those provided by 30 CFR part 845.

The proposed amendment will provide DER with the option to waive the civil penalty for any Compliance Order violation when the calculated assessed amount of the penalty is less than \$1,000 and the violation does not relate to a discharge. This amendment will not affect Section 2, paragraph 3 of the Civil Penalty Program document which requires mandatory civil penalties when the assessment amount for a Compliance Order violation is \$1,000 or greater.

The Federal counterpart at 30 CFR 845.12 requires a mandatory civil penalty for each violation assigned 31 or more points which, under the Federal assessment scheme, equates to \$1,100. Thus, the proposed amendment provides for a mandatory civil penalty at a lower dollar level than do the Federal rules.

The U.S. District Court for the District of Columbia, in *In re: Permanent Surface Mining Regulation Litigation* (Civil Action 79-1144, February 26, 1980), ruled that SMCRA requires states to develop penalty systems incorporating the penalty criteria listed in section 518(a) of the Act and that these systems must result in the imposition of penalties no less stringent than those set forth in the Act; however, penalties need not be assessed in all cases where they would be under 30 CFR part 845, nor need penalty amounts be equivalent to those of 30 CFR part 845.

Under section 518(a) of SMCRA, the assessment of civil penalties by the regulatory authority is discretionary, except when a violation leads to the issuance of a cessation order. In determining the amount of penalty, a regulatory authority is required by section 518(a) to give consideration to: (1) The permittee's history of previous violations, (2) the seriousness of the violation, (3) whether the permittee was negligent; and (4) the demonstrated good faith of the permittee charged in attempting to achieve rapid compliance after notification. These criteria are present in Pennsylvania's system of assessment of civil penalties. Furthermore, the State's rules at 25 PA Code 86.193(a) provide for mandatory civil penalties for each violation which is included as a basis for a cessation order.

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REMOVAL AND RETURN

*The Socio-Economic Effects of the War
on Japanese Americans Farmers*

BY

LEONARD BROOM AND RUTH RIEMER

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CHAPTER VI

THE TERMINAL ISLAND COMMUNITY

BEFORE PRESENTING the findings of an intensive study of the role of Japanese Americans in the fishing industry,¹ we should describe the setting of Terminal Island and the nature of fishing operations in this area.

Terminal Island in Los Angeles Harbor was headquarters for the fishing industry in Southern California. It is also a naval base, a federal quarantine station and prison, and a shipbuilding center. The Island, about three-quarters of a mile wide and three and one-half miles long, is connected with the mainland by a drawbridge near the northeastern end and by ferry service at the western end. Fish Harbor and the fish canneries are clustered in the southwestern corner of the Island, from which juts Reservation Point with its federal quarantine station and prison.² During the war the only residents were military and naval personnel, government employees, and prisoners, but the prewar population included fishermen, cannery workers, tradespeople, and their families. The western half of the Island, Los Angeles City Census Tract 294, had almost all the Island's residents, a total of 3,831 in 1940. Of these, 2,253, or 59.8 per cent, were classified as "other nonwhites," most of whom (2,051) were Japanese.³

A dozen Japanese abalone fishermen settled on the Island in 1901. Other fishermen came after 1906, and between 1907 and 1910 three fish canneries began operation. The Japanese population first built pile houses on the western shore of the Island. Later, as harbor development built up the land with channel dredgings, new canneries were built. Houses for fishermen were constructed by the canneries to the south of the original settlement and south of the present highway, and the community known as East San Pedro, or Fish Harbor, shifted in that direction over a period of years. After 1918 the population grew rapidly. Fishermen moved to the Island after a destructive fire on the mainland near by; there was some migration from Monterey; and after the 1921 Alien Land Law was passed, farmers who had had fishing experience in Japan turned again to fishing. By 1925, the community had reached the size it subsequently maintained. The population remained almost entirely Japanese American, and mobility was very low.⁴

Along the main highway and separated from East San Pedro was a smaller settlement that was started in the 1890's as a beach resort, but,

with industrial development on the Island, it declined. It never achieved the size of East San Pedro, and in 1940 it had not quite three-fourths as many occupied dwelling units. About 40 per cent of the housing units were occupied by Japanese Americans and the remainder by Mexicans and other whites.⁵ Because of the mixed population and its position on the highway, Terminal Island was not so tightly organized or isolated as East San Pedro. A large proportion of the Japanese Americans were single men who lived in boarding or camp houses and patronized the business enterprises in East San Pedro.

Most of the Japanese American families lived in East San Pedro in houses built and owned by the fish canneries. Women, old men, and some of the children worked as fish cleaners and packers. The able-bodied men engaged in catching sardines, mackerel, tuna, and other fish for canning. The fishing fleet on which they worked operated from the docks in Fish Harbor and took on supplies there. Tuna Street, leading to the wharf, was lined with shops, restaurants, and other service facilities. Most numerous were the restaurants, serving both Island residents and many cannery workers who came from the mainland. The businesses were operated as family enterprises by Japanese Americans who lived in rooms behind their shops. Some of the buildings were owned by Nisei, but the land could not be purchased and had to be leased from the Harbor Authority. The economy of the entire community was dependent upon fish. If the catch were poor or if fish prices were low in relation to other prices, there was not a person in the community—whether in the fleet, the canneries, or in the shops—who was not directly affected.

Crews of one to four manned the small boats and fished with brail nets for mackerel or used hooks and lines to catch albacore and other fish that cannot be netted profitably. But more than four-fifths of the men worked on purse seiners, the larger boats engaging principally in sardine and tuna fishing.

Before the war the lives of the fishermen and their families were geared to the movements of schools of Pacific fish. The nature of their occupation required the fishermen to be industrious workers willing to spend long periods away from their homes and families at hard and often dangerous work.

For the sardines they fished north and south along the coast and out to and beyond the Channel Islands, usually leaving port one day and returning the next. The sardine season began in July along the northern coast of Washington and moved south, reaching Monterey in October. The season for California, set by the California Fish and Game Com-

mission, was from the first of October to the middle of February. The boats at Los Angeles frequently went north to meet the early runs at Monterey and then returned to Los Angeles for the rest of the season. For those who chartered boats and engaged only in sardine fishing, the charter period approximated this Monterey-Los Angeles sardine season.

Fishing for sardines is done at night when the moon is down. The most important crew member is the specially qualified "mast man" who keeps a lookout from the crow's nest. In the dark of the moon, the schools of sardines appear to the mast man as areas of phosphorescence at the water's surface. Dawn or the rising moon interrupts the search for fish. The return trip is often a race because boats are unloaded in the order in which they arrive at Fish Harbor. Motor-driven scoops shovel the fish onto conveyors called flumes, which carry the catch to the second floor of the cannery for processing. After the unloading, the crew clean the boat, fuel and groceries are brought aboard, and in a few hours the boats are ready for the next night's run. On Saturdays, as soon as the catch is unloaded and the boat made ready, the crew is free for the week end. There is also a rest of six days during the full moon.

The daylight tuna fishing requires trips ranging from a few days to two weeks or more. The smaller seiners and others without refrigeration fish Southern California waters close enough to port so that they can return with a catch before the fish spoils. Seiners with refrigeration spend part of the season on trips into Mexican waters, sometimes venturing down the coast beyond Central America and westward to Hawaiian waters. The tuna season begins in April and continues until the sardine season in the fall.

Among Japanese Americans there were three chief roles in fishing that represented fairly clearly defined areas of status separation, function, and points of achievement within a striving system. This differentiation was almost a pure case of individualized striving according to capitalistic criteria, involving the accumulation of power and wealth by the provident care of earnings from productive enterprise and the handling of savings as risk capital.

The individuals on the bottom of the status system were the crew members who had no occupational property. In the discussion and tabular presentation that follows, crew members are coded with the prefix C. Wages or shares were and are controlled by collective bargaining with fishermen's unions. In Monterey the American Federation of Labor affiliates are dominant, but in the Los Angeles area the Congress of Industrial Organizations is also represented. Each boat, however, is a

closed shop. Upon the return of Japanese Americans to the Coast, the C.I.O. waived initiation fees, whereas the A.F. of L. did not waive either the reinstatement fee of \$10 for their old members or the initiation fee of \$25 for new members.

On the second step in the hierarchy were equipment owners, designated by the prefix E. The most important pieces of equipment were nets, which often represented a substantial accumulation of capital. We also include, in the category of equipment owners, ship engineers who owned the tools of their trade valued between \$300 and \$400, and small boat operators (but not boat owners) who owned their hooks and lines.

At the top of the status system were the boat owners, designated by the prefix B. They usually owned nets and other equipment and had ascended from the ranks of equipment owners. Typically, the operator owned an interest in the boat—up to 49 per cent if he were Issei—which he had purchased from the cannery. It was this ownership interest that classified him more appropriately as an "own-account" worker than an employee. Men who aspired to be boat owners chartered a boat and made a down payment on a net. When the net was paid for, the operator negotiated for a boat, so that earnings were immediately reinvested in the industry. In 1947, boats large enough to engage in sardine fishing cost \$30,000 or more; tuna and sardine purse seines (nets) cost between \$15,000 and \$20,000 each, and a boat requires one of each if it is to participate in both seasons. In general, boat and net prices in 1947 were more than double prewar prices.

Share assignments are made after running expenses (mainly food and fuel) are deducted from the gross returns of the catch. Returns to the boat owner, the net owner, and crew members are standardized by the union, which acts as a kind of arbitrator, even though the owner may also be a member of the union. The portion set aside for the boat owner varies with the size of the craft.

In one case in 1947 the net return was divided into twenty shares: five for the boat owner, three for the owner of the sardine net, and a single share for each of the twelve members of the crew. The owner of the net, a Japanese American, chartered the boat from a Caucasian who usually went along as a member of the crew. The latter received six shares of the returns, five for his boat and one for his work as a member of the crew. The net owner, similarly, received four shares, three for his net and one as a crew member. He was skipper of the boat as well, but in none of our cases did the captain or operator of the boat get more for his work and skill than other members of the crew. The expected

return in 1947 was \$200 a month per share. From his shares the net owner must keep the net in repair and build up a reserve to replace it when it becomes damaged or deteriorates beyond repair. Similarly, the boat owner pays from his own shares for the maintenance of his craft.

By order of the California Fish and Game Commission, fishermen must have a written order before they may deliver fish to a cannery. The canneries post the prices they will pay for fish. During the war, ceiling prices, which were the effective prices, were set by the Office of Price Administration. After the decontrol of prices, fishermen through their unions resumed attempts to negotiate contracts with the canneries at the beginning of the season, so that they would know, before setting out, the minimum prices the catch would bring. Such contracts had been in operation in the San Pedro area from 1934 until the establishment of wartime price controls. The procedure had been for the boat operators to ask in their individual contracts with the canneries the minimum price previously agreed upon by the union. In the summer of 1946, cannery fishermen in San Pedro successfully struck to enforce their demand for a minimum price for tuna. The canneries had been reluctant to negotiate price clauses because of the indictment a month before of other union leaders for conspiracy to fix fresh-fish prices in violation of the Sherman Antitrust Act. The government contended that the boat operators were independent businessmen, whereas the union maintained that they were primary producers, like farmers, who may market cooperatively without restraint under antitrust laws. The court found for the government and in 1948 the case was still under appeal.⁹

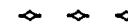
The 1940 Census reported 768 Japanese American fishermen on the West Coast. Almost all of them (740) were in California, and over 70 per cent (556) were in Los Angeles County.⁷ The rolls of the Southern California Japanese Fishermen's Association, to which most of the fishermen belonged, listed 537 members in December, 1941. Of these, 373 were Issei and 164, 30.5 per cent, were Nisei.⁸

The most skillful fishermen—those who made the key decisions—were Issei who had been fishermen before leaving Japan. They were pioneers in the development of an industry that now makes Los Angeles the nation's largest fishing port. The Nisei, most of whom were in their late teens and early twenties, were usually the sons or nephews of Issei fishermen. In 1931 only 11 of 429 fishermen living in East San Pedro were Nisei.⁹

Our 20 per cent sample of the Japanese American labor force in Los Angeles County showed that in 1941 half of the Issei fishermen had 20

years or more of experience, but that few Nisei had as much as 5 years, and most had only 2 or 3 years of experience. In our 1947 interviews we found that 37 Issei fishermen had prewar experience ranging from 4 years to 50 years, with a mean of 22 years. There was no apparent difference in length of experience between boat owners, equipment owners, and crew members. In the same survey 22 Nisei had a mean of 5.5 years of experience. The occupational stability of this group is a measure of the selectivity of a rather highly specialized occupation. Only a small part of the working life of men in the sample had been spent in other occupations.

Had the Evacuation not intervened, the Nisei would have continued in fishing and eventually assumed the place of the Issei. This tendency would have been reinforced by the pattern of family enterprise and the common practice of registering ownership in the name of the Nisei relative. The latter practice was often an evasion of discriminatory laws, but also manifested the property-holding precepts of the group. Although the Nisei were accumulating experience in the trade, few of them by 1942 had served sufficient apprenticeship to replace the Issei in any but routine jobs. Very few Nisei had had experience as skippers.



Terminal Island Japanese Americans probably suffered more heavily in the Evacuation than any other occupational or locality group. Their residence and work had long been attacked by the West Coast press. Upon the outbreak of war many alien males were arrested by the FBI,¹⁰ and the other aliens were not allowed to operate their fishing boats. The Nisei were too young and too unskilled to operate alone during the few weeks when they might have done so. With fishing cut off, the canneries had no work for the women, and many families were left entirely without income. On February 10, 1942, the confusion began that made it almost impossible for Terminal Islanders to salvage their property. One day after they had received notice from the Department of Justice to vacate the Island within a week, an executive order placed the Island under the jurisdiction of the Navy, and residents were notified that they would be evicted within 30 days. The implied reprieve was canceled the next week and they were ordered to be off the Island within 48 hours. Islanders were helped by friendly church groups to move with some hand baggage to hotels or the homes of relatives and friends. In Boyle Heights a former community center and language school was converted into a hostel to provide additional housing. Even with this assistance,

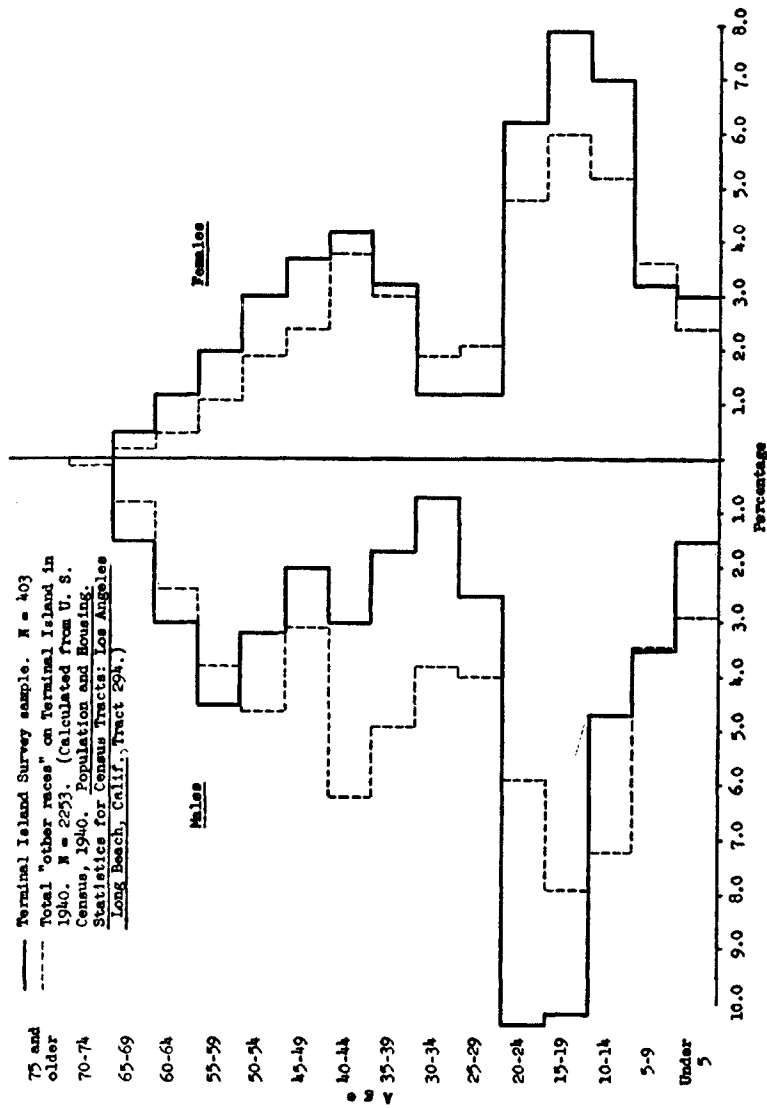


Fig. 22. Age-sex distribution, Terminal Island: "Other races," 1940, and Terminal Island Survey sample, 1943.

much property had to be abandoned, especially business property and fishing gear. For the next two months, until Manzanar was prepared by the Army to receive a mass evacuation, Terminal Islanders were scattered throughout the metropolitan area, exhausting in living expenses whatever little resources they had been able to salvage. Later they discovered that their homes and shops had been razed by the Navy. Some of them received official offers of government payment, long after the property and all evidence of its value had been destroyed.

The property-holding situation was as follows: most of the land, which was held by the Harbor Commission, was leased to the canneries that had built the houses and industrial buildings. The former were rented in turn to the fishermen and cannery workers, and it was in these dwellings that much of their goods were left at the time of eviction. Small pieces of property were also leased directly to businessmen who had constructed and equipped stores. Although cannery representatives may have been able to make direct representations regarding the value of their property that was cleared for naval purposes, the holdings of Japanese Americans were much more difficult to assess, and evacuees in our survey had not been consulted in the evaluation.¹⁴ We have not been able to determine whether the assessment included household gear abandoned in the dwellings or store fixtures and inventories that could not be removed.

As a result of these experiences and the poor prospects for a return to the only occupations the evacuees knew, thirty-one of the Terminal Island families at Manzanar applied for repatriation or expatriation to Japan. Some applications, of course, were canceled.¹⁵ One out of every four Terminal Island families was segregated at Tule Lake.¹⁶ Of those in the Terminal Island Survey who returned to Los Angeles County, only one of every eight families had one or more members segregated at Tule Lake, and few members, if any, expatriated or repatriated. If the amount of loss was related to bitterness and refusal to swear "loyalty," we may guess that our sample of families lost less than the average for Terminal Islanders. It may be representative, however, of the families that remain in this country and can present their claims for losses suffered.

In the Terminal Island Survey sample were 97 families (18.1 per cent) of the 537 "other nonwhite" households in Census Tract 294 in April, 1940. The sample included 403 persons (17.9 per cent) of the 2,253 persons of "other races" enumerated by the 1940 Census. The 188 prewar workers comprised 16.7 per cent of the nonwhite labor force.

With regard to size of family or household, although our sample has too few one-person families and too many three-and-four-person families, it is within random sampling error.¹⁴ The mean number of workers per family in the sample (1.9) was slightly less than the mean number of workers per nonwhite household in the Census enumeration (2.1

TABLE 36
CLASS OF WORKER OF EMPLOYED PERSONS
(Terminal Island Survey)

Class of worker	Terminal Island Survey, Nov., 1941 ^a		Census Tract 294, April, 1940 ^b		Terminal Island workers, Nov., 1941 ^c	
	Number	Percentage	Number	Percentage	Number	Percentage
Total.....	188	100.0	1,118 ^d	100.0	135 ^e	100.0
Employers (E) and own-account (OA) workers.....	43 ^f	22.8 ^f	65	5.8	24 ^g	17.8 ^g
Wage or salary workers in private (PW) or government (GW) employment..	124	66.0	1,037	92.7	105	77.8
Unpaid family workers (NP)	21	11.2	16	1.4	6	4.4
Class of workers not reported.....	..	....	5	....	6	....

^a Employment status as reported for November, 1941.

^b U. S. Census, 1940. *Population and Housing. Statistics for Census Tracts: Los Angeles-Long Beach, California*. These figures include all nonwhites, about 100 of whom were non-Japanese.

^c 20 per cent random sample of all Japanese Americans employed prewar in Los Angeles County who entered War Relocation Authority Centers. From WRA Form 26, employment status as reported for November, 1941.

^d Total labor force of 1,125 includes two unemployed and five persons with class of worker not known.

^e 20 per cent sample of 143 includes two unemployed and six fishermen with class of worker not known. The latter probably are OA and E workers by our definitions, which would make OA and E workers 21.3 per cent of the total, and directly comparable with the Loss Survey cases.

^f Includes 27 fishermen operating own boat or owning net. The U. S. Census classified these as PW since most are under contract to deliver catch to particular canneries. If the survey sample is so classified, the proportion of E and OA workers becomes 3.5 per cent, and the proportion of PW and GW workers increases to 89.3 per cent.

^g Includes seven fishermen operating own boat. If classified with PW (see footnote ^f), the OA and E workers become 12.6 per cent of the total, and PW workers 83.0 per cent of the total.

workers). The age-sex distribution of our sample, however, is far different from that shown by the Census for "other races" resident in Tract 294. (See fig. 22.) The discrepancies are probably due to differential relocation to other areas and differential repatriation-expatriation by family types.¹⁵

The only published tract statistics on occupational status of nonwhites are for class of worker. Table 36 compares, by class of worker, the Terminal Island sample, the 1940 Census, and our 20 per cent

sample. Note that we classified fishermen who operated a boat and delivered the catch to canneries for a fixed price as independent workers and not merely employees. This is appropriate because they received no regular wage or salary, but rather a share of the price obtained for the catch. Although it was true that crew members on fishing boats also received their pay in shares of the catch, crew members were directly hired by the boat operator or master. Note also in table 36 the small

TABLE 37
PREWAR OCCUPATIONAL GROUPS OF FAMILIES
(Terminal Island Survey)

Occupational group, 1941	Number	Percentage
All families.....	97	100.0
Family enterprise.....	41	42.3
Trade.....	10	10.2
Personal service.....	2	2.1
Contract gardening.....	2	2.1
Fishing, own boat or net.....	27	27.9
Families with employees only, by occupation of head of family.....	56	57.7
Clerical and sales workers.....	1	1.0
Canning and packing operatives.....	14	14.4
Service workers.....	3	3.1
Farm and nursery laborers.....	1	1.0
Other laborers.....	1	1.0
Fishermen, crew members on shares.....	36	37.2

number of unpaid family workers reported by the Census. With this population, such a low figure probably signifies that the Census classified some unpaid workers as wage workers and (or) failed to enumerate all unpaid family workers. With these modifications in mind, it appears that our Terminal Island sample contains slightly more employers and own-account workers and their unpaid family workers than their proportionate number in the prewar population.

In table 37 this weighting also appears. In 1930 there were 60 businesses, other than fishing, operated by Japanese on the island,¹⁶ and this number remained about the same in 1940. The Census listed 65 persons as employers and "own-account" workers, and a few of them were partners. In our sample there were 14 families who had operated businesses, or about one-fourth of the total number of businesses, whereas our sample as a whole runs between 16 and 18 per cent of the total

population. There were 11 restaurants in 1930; we have 5 in our sample, but 4 of the families began their operation after 1930. All occupations of individual wage and salary workers from Terminal Island are represented in the sample in proper proportion.¹⁷

Relocation was much slower among Terminal Island families. Only 22 (22.7 per cent) in the Terminal Island Survey had one or more members relocated before the Coast was opened in January, 1945. In only 4 (4.1 per cent) was the complete family living outside the centers, and all 4 were voluntary evacuees who had never been in a relocation center.

TABLE 38
DEPENDENCE UPON FAMILY ENTERPRISE
(Terminal Island Survey)

Family occupational group	Number of families	Workers in family enterprise	Workers outside family
All families.....	97	63	125
Percentage of total workers.....	100.0	33.5	66.5
Family enterprise			
Business.....	14	29	..
Fishing, own boat or net.....	16	18	..
Mixed ^a	11	16	27
Employees only, inc. fishermen, crew members on shares.....	36	..	66
Wage and salary workers only.....	20	..	32

^a Family enterprise plus one or more wage or salary workers outside the family enterprise.

Of the total evacuee population, 45.5 per cent of the families had at least one member and 19.1 per cent had the complete unit relocated by January, 1945.¹⁸ By the end of June, 1945, 35 Terminal Island families (36.1 per cent) had one or more members relocated, but no complete units had yet left the relocation centers. Of all evacuee families, 58.4 per cent had at least one member relocated by August 1, and 37.6 per cent of all families were completely relocated. In other words, of Terminal Island families in our sample who went to relocation centers, no complete units relocated before the compulsory relocation program was announced in August, 1945. Of those families in which at least one member relocated before that date, half had members in the Armed Forces.

To round out the description of the sample, at the time of the survey 74 (76.3 per cent) of the families were living in trailers, 10 (10.3 per

cent) in the housing project, and 11 (11.3 per cent) were living outside. In two cases the type of housing was not known to us. This may be compared with the Loss Survey families, of whom 49.0 per cent (101 of 206) were in trailers, 19.9 per cent (41) in the housing project, and 31.1 per cent (64) outside or unknown.¹⁹ The more disadvantageous position of the Terminal Islanders in securing housing is clearly indicated. As to family size, 61 families (62.9 per cent) still had all their 1942 members, plus whatever additions had occurred. Like the Loss Survey group, Nisei parents were disproportionately represented: 12 out of 15 families with one or both parents Nisei remained intact, but this was true of only 27 out of 58 families with Issei parents.

Fewer Terminal Island families were engaged in independent enterprise (table 37) than in the total Japanese American population, and two-thirds of the persons in the labor force were employed outside family enterprises (table 38). Thus there was less direct interdependence of members in the Island families. But the community's integration with fishing was such that anything that affected fishing had immediate impact upon the whole community. Of 188 gainfully employed, 75 per cent were fishermen (81) or fish cannery workers (60). Almost all the remainder were in businesses servicing the fishing industry or the community.

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We are now prepared to describe the severity of losses incurred by this part of the population. Table 39 and figure 23 present the median losses per family and per family per adult for the Terminal Island occupational groups. In comparing these median losses with those for the Loss Survey (table 32), the following points may be noted. There were relatively few Terminal Island businesses, but their losses throughout were greater than for non-Island businesses; they were able to save virtually nothing in the 48-hour period before removal. The Loss Survey businesses had a longer period for liquidation and were accessible to the non-Japanese population. They were therefore able to make sacrifice sales. Families of fishermen who owned boats or nets suffered about the same amount of property losses as business families in the non-Island population, but the former probably lost a greater proportion of their total prewar assets. Household and personal property losses in general are relatively low among the nonbusiness families of the Island, not because such property was salvaged, but because not much had been accumulated in the small houses rented from the fish canneries. Income losses in general are high because most of the Terminal Island families

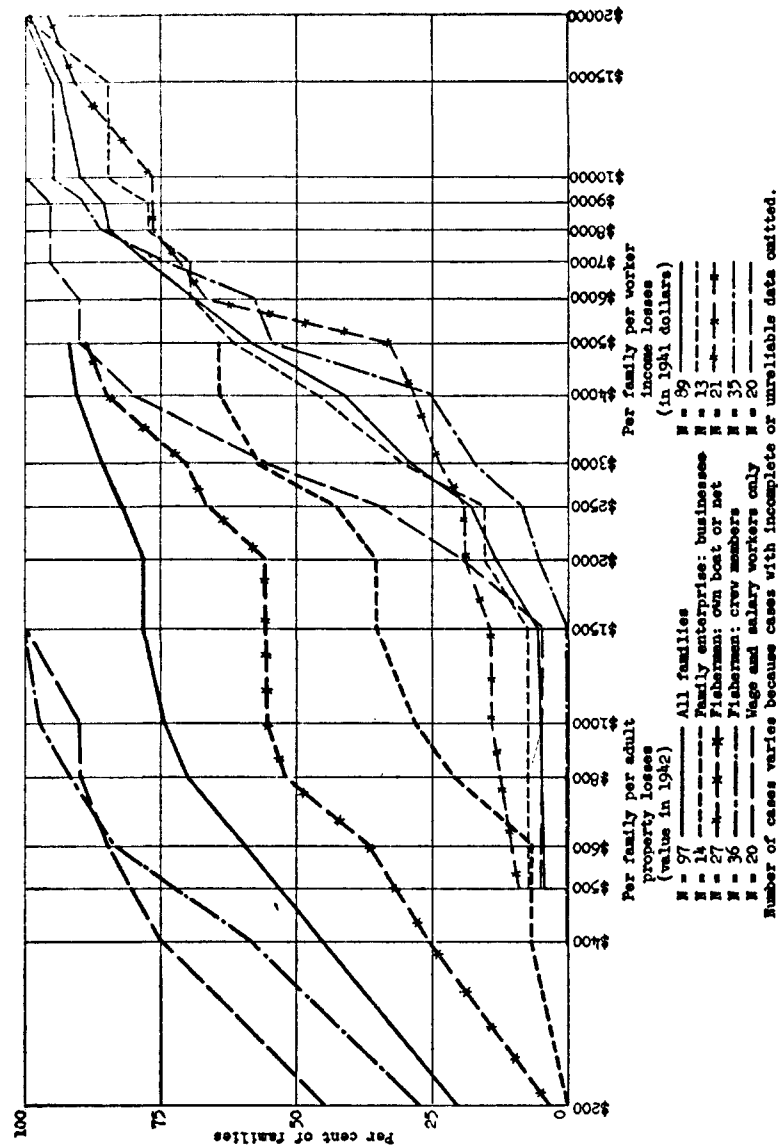


Fig. 24. Distribution of per family property losses and per family income losses, by cumulative percentages. (Terminal Island Survey)

remained in the relocation centers until they were closed. Among families of crew members, a large proportion of whose women worked part time in the canneries, income losses are highest. Income losses per family per worker are relatively higher than among Loss Survey families, both because of the longer average period in the relocation centers and because of the smaller number of unpaid family workers in the Terminal Island sample. The figures for fees and expenses are too low because of incomplete returns on living costs during the interval between their removal from the Island and their entering assembly centers. For two months they were in no position to seek new employment.

In summary, median losses for families in the Terminal Island sample reflect lower property losses because these families had less to lose, and higher income losses because of long residence in the relocation centers. Median losses per family per adult and per worker were relatively higher because of the smaller number of adults per family in this sample. For all families considered together, median total loss figures are fairly close to those for families in the Loss Survey, but the losses represent a greater proportion of the total prewar assets of the Terminal Island families.

The distribution for Terminal Island families of property losses per family and per adult and income losses per family and per worker are shown as cumulative percentages in figures 24, 25, and 26. Several comparisons may be made with the distributions among the Loss Survey families.²⁰ Among Terminal Islanders the various occupational groups show greater divergencies. Of business families, 36 per cent had property losses greater than \$20,000, but of families with only wage and salary workers, excluding fishermen, 50 per cent had property losses of \$500 or less. Although the range of losses for Terminal Island families was about the same as that for Loss Survey families, a greater proportion of the former are in the lower part of the distribution. The various occupational groups among the Terminal Island families also show wider divergencies in income losses per family, but the curves for all families in each sample are similar, i.e., approximately the same proportion of Terminal Island and Loss Survey families had income losses of any specified amount.

The same facts appear in the comparison of Terminal Island and Loss Survey families with regard to property losses per family per adult and income losses per family per worker. Note that among Terminal Island families a very small proportion had per family per worker income losses of less than \$2,000, reflecting the postponement of relocation by these families until a relatively late date.

Figures 24 and 25 indicate that among Terminal Island families, as among the families in the Loss Survey, income losses were greater than property losses, even when anticipated income was estimated at the lowest possible figure, i.e., at 1941 income levels. Table 40 presents a

TABLE 40
RELATIVE SIZE OF PROPERTY LOSS AND INCOME LOSS
(Terminal Island Survey)

	All families	Family enterprise		Fisher- men, crew members	Wage and salary workers only
		Business	Fisher- men, own boat		
Number of families.....	89	13	21	35	20
Percentage.....	100.0	100.0	100.0	100.0	100.0
Income loss greater than property loss.....	73	7	12	35	19
Percentage.....	82.0	53.8	57.2	100.0	95.0
Property loss greater than income loss.....	16	6	9	0	1
Percentage.....	18.0	46.2	42.8	0.0	5.0
Number of families for which data incomplete.....	8	1	6	1	0

tabulation by individual families. Whereas almost half of the business families and families with fishing boats or nets lost more in property than in income—a reflection of their extremely heavy property losses—almost all other families lost more in income than in property. Of all the families, 82 per cent had greater income losses than property losses. Distributions of combined property and income losses were very similar for the Terminal Island and Loss Survey samples (figs. 26 and 18).

The conditions under which Terminal Island families were evacuated are reflected in the tabulation of reasons for loss (table 41). We recorded as "abandoned" the household and personal property that could not be removed from the rented buildings in the 48-hour period allowed. The situation was somewhat different for business families who owned combined residences and stores. Household and occupational property was often locked up at the time of Evacuation and lost when the government later destroyed most of the buildings on the Island. Such losses were classified under "other" reasons. Note that among Terminal Island fami-

TABLE 41
REASONS FOR PROPERTY LOSSES BY KINDS OF PROPERTY
(Terminal Island Survey)
(Percentage of dollar loss)

Family occupational group and reason for loss	Household and personal property	Occupational property	Total property
All families			
Loss by sale.....	27.3	26.9	27.0
Loss by abandonment.....	34.2	11.5	17.6
Loss in storage.....	8.7	14.2	12.8
Loss, other.....	29.8	47.4	42.6
Amount lost.....	\$112,174	\$305,070	\$417,244
Family enterprise, business			
Loss by sale.....	10.4	25.8	22.6
Loss by abandonment.....	24.8	7.2	10.9
Loss in storage.....	4.5	4.1	4.1
Loss, other.....	60.3	62.9	62.4
Amount lost.....	\$45,264	\$167,581	\$212,845
Fishermen, own boat or net			
Loss by sale.....	36.8	28.7	29.8
Loss by abandonment.....	44.9	15.8	19.7
Loss in storage.....	15.7	26.6	25.2
Loss, other.....	2.6	28.9	25.4
Amount lost.....	\$20,872	\$134,753	\$155,625
Fishermen, crew members on shares			
Loss by sale.....	39.6	3.8	36.6
Loss by abandonment.....	41.5	66.9	43.6
Loss in storage.....	10.1	29.3	11.7
Loss, other.....	8.8	0.0	8.1
Amount lost.....	\$30,132	\$2,736	\$32,868
Wage and salary workers only			
Loss by sale.....	39.4	....	39.4
Loss by abandonment.....	32.8	....	32.8
Loss in storage.....	9.3	....	9.3
Loss, other.....	18.4	....	18.4
Amount lost.....	\$15,906	....	\$15,906

TABLE 39
SUMMARY OF EVACUATION LOSSES
(Terminal Island Survey) ^a

Family occupational group	No. of families	Mean no. of adults per family	Median per family loss					Median per family per adult loss					
			Household and personal property	Occupational property	Total property	Income, in 1941 dollars	Fees and expenses	Total	Household and personal property	Occupational property	Total property	Income, in 1941 dollars, per worker	Total
All families.....	97	2.8	\$ 735	\$1,833 ^b	\$1,196	\$7,500	\$164	\$10,982	\$291	\$567 ^b	\$464	\$4,500	\$4,107
Family enterprise, business.....	14	3.0	1,750	7,000	10,000	8,500	175	21,250	600	1,700	2,750	4,250	6,250
Fishermen, own boat or net.....	27	3.3	695	2,250	3,500	8,250	170	13,440	233	580	775	5,500	5,250
Fishermen, crew members on shares..	36	2.7	714	322 ^c	818	8,833	120	10,434	300	100 ^c	346	4,850	4,188
Wage and salary workers only.....	20	2.2	500	.....	500	4,000	200	5,500	233	.....	233	2,875	2,800

^a See footnotes to table 32 for explanation of how dollar values were reached and how to read figures.
^b Number of families = 50.
^c Some crew members on share basis had occupational equipment such as tools, corks, ropes, etc. Number of families = 9.

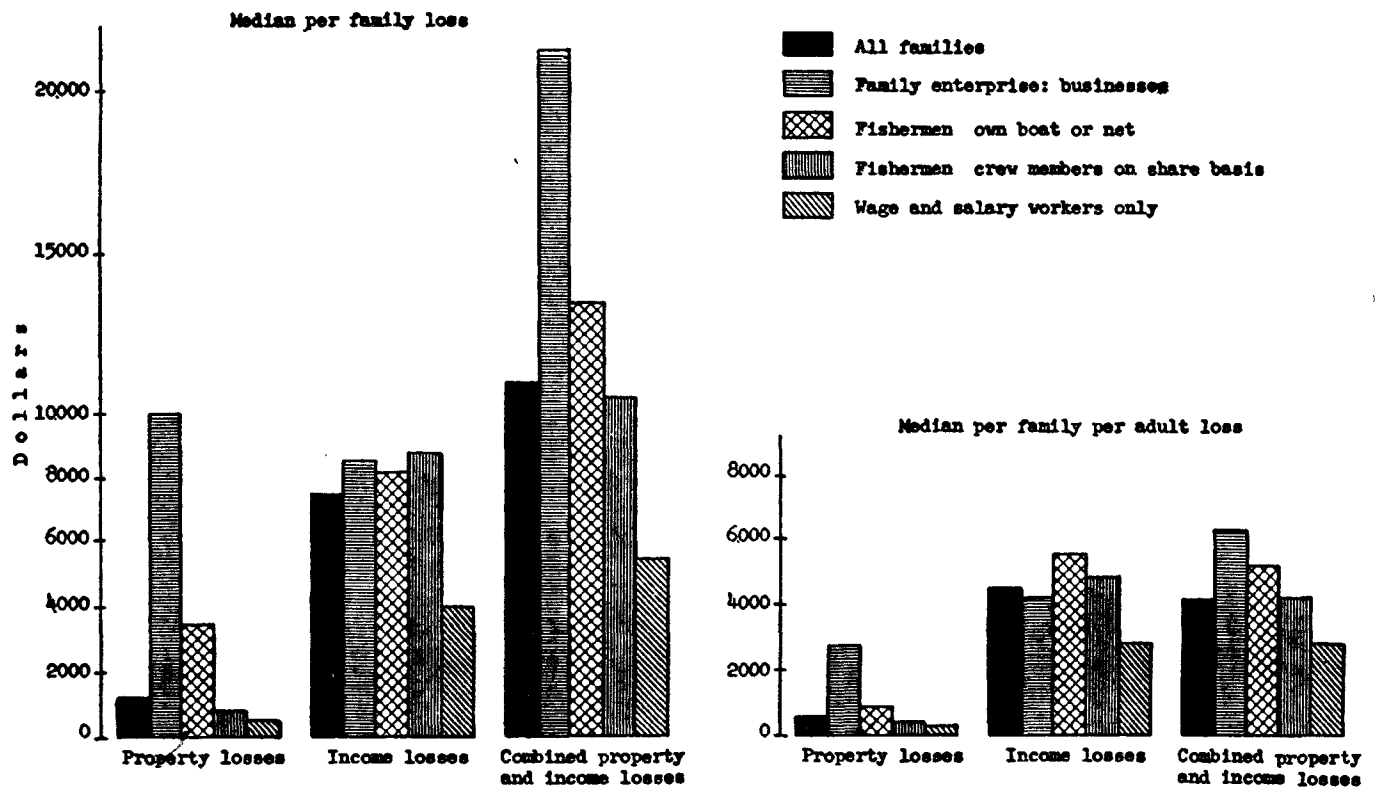


Fig. 23. Summary of evacuation losses. (Terminal Island Survey.) For explanation of items see text, pp. 142-143, and footnotes to table 32, p. 144.

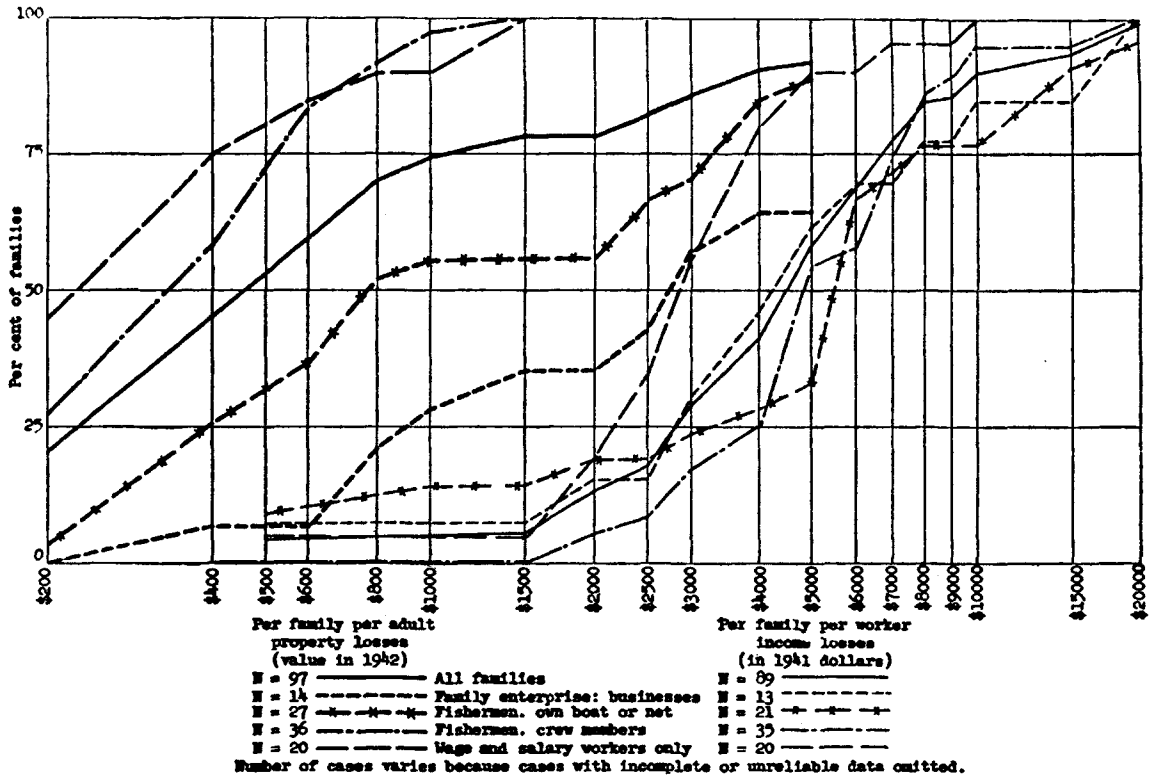


Fig. 25. Distribution of per family per adult property losses and per family per worker income losses, by cumulative percentages. (Terminal Island Survey)

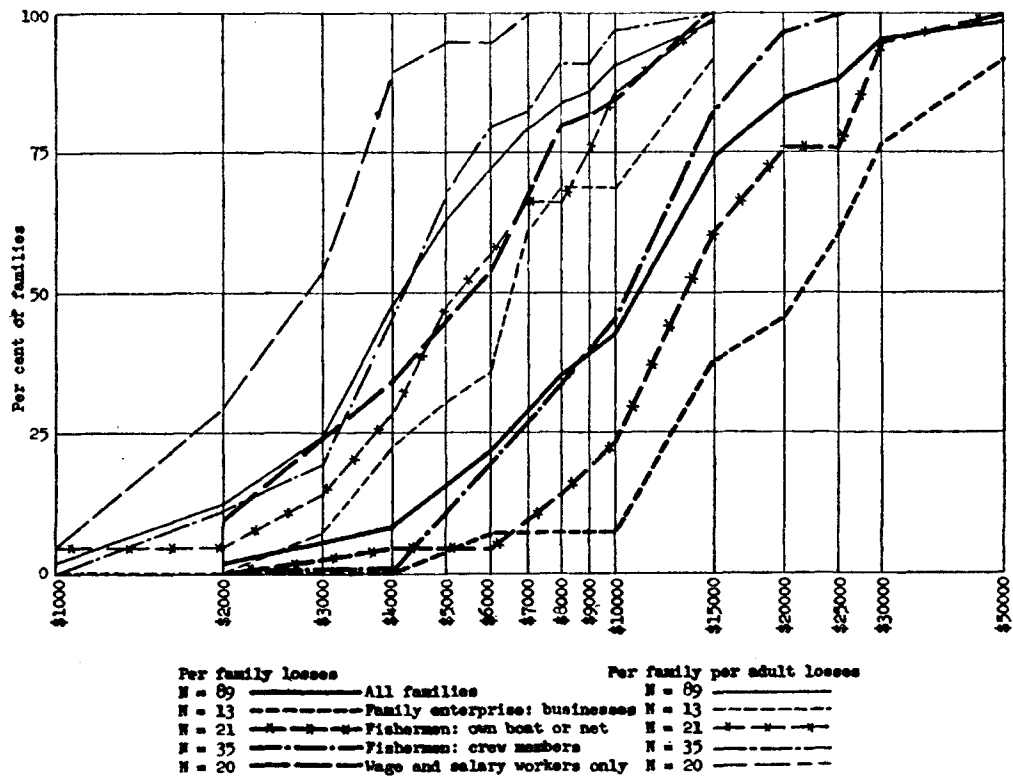


Fig. 26. Distribution of per family and per family per adult combined property and income losses, by cumulative percentages. (Terminal Island Survey)

lies only about one-fourth of all property losses were from sales, as compared with half among Loss Survey families (table 34). The proportion abandoned is not very different between Island and Loss Survey families, an indication that the monetary value of the household furnishings left behind on the Island was small relative to the loss by confiscation or sale of houses, stores, boats, and nets. The data of table 41 are presented graphically in figures 27 and 28.

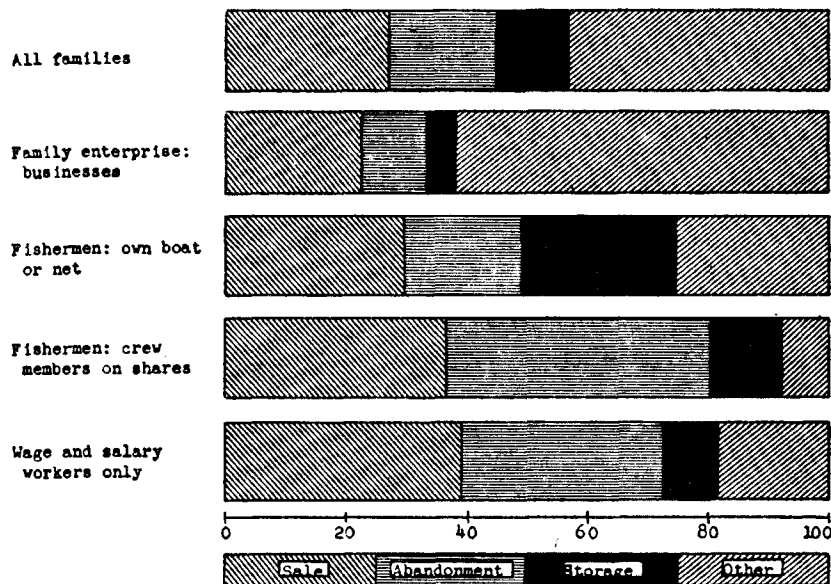


Fig. 27. Reasons for property losses by family occupational group. (Terminal Island Survey)

Terminal Island families appeared to have better evidence to support claims than Loss Survey families (table 42) because the former had government documents for confiscated real property, and wage and salary workers had prewar income records in the form of receipts for social-security tax deductions. Some 60 per cent of Island families, as compared with 50 per cent of Loss Survey families, had impersonal evidence to substantiate part of their claims. Since Terminal Islanders had worked for the big canneries, they more frequently paid such taxes than did Loss Survey wage and salary workers who had been in the clerical-sales, farm labor, and domestic servant categories. As with Loss Survey families, we cannot determine whether families with total losses of \$2,500 or less have more or less documentary evidence than families with losses greater than \$2,500.

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It will be advantageous here to supply some reference points for the interpretation of statistical statements about occupational property losses. Parker obtained complete information from 63 fishermen, of whom 25 were crew members, 21 were equipment owners, and 17 were boat owners. The distribution and details of equipment losses of boat and equipment owners are shown in table 43. Among the equipment owners, losses ranged from \$45 to \$22,650. Equipment losses suffered by boat owners ranged from nothing to \$17,500. Losses on boats ranged

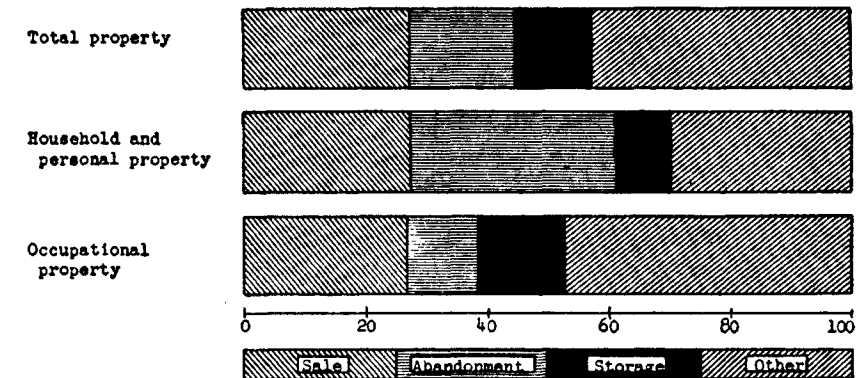


Fig. 28. Reasons for property losses, all families, by kind of property. (Terminal Island Survey)

from \$200 on a small jig boat to \$34,000 on one of the largest seiners. The combined losses of boat owners are presented in table 44.

The difficulty in estimating losses in the sale of fishing property is illustrated in the extreme case of the tuna boat owned by a corporation made up of B16 and three other Nisei. The 110-foot seiner was mortgaged for \$30,000 to Cannery D. When war made it necessary to dispose of the boat and pay off the mortgage, the boat was appraised at a replacement value of \$65,000. Today B16 feels that this was a fair valuation for the boat and estimates losses from it. Cannery D, however, would pay only \$1,000 for the boat, in addition to their mortgage, and demanded either their money or the boat. Considering the sum inadequate, B16 and his associates decided to insure the boat and charter it out for the period of their absence. The insurance company would not write a policy until the boat had been given a new bottom, which would have cost nearly as much as the mortgage already on the boat. B16 is convinced today that the insurance company representatives and the cannery worked in connivance to force him to turn the boat over to the

cannery, which he finally did. Although B16's estimate of a \$34,000 loss on this boat is used in discussing the case, the new bottom, if actually needed, might have made up most of the difference between the \$31,000 received and the \$65,000 valuation claimed.

Lack of reliability was more commonly due to other factors. We know that a new tuna net cost about \$8,000 and a sardine net about \$5,000 in 1941. Therefore, when someone claimed that his tuna net was worth

TABLE 42
NATURE OF EVIDENCE TO SUPPORT CLAIMS
(Terminal Island Survey)

Family occupational group	No evidence of any kind		Witnesses, letters, or diaries only		Other evidence*		Total	
	No.	Per-centage	No.	Per-centage	No.	Per-centage	No.	Per-centage
All families.....	27	27.8	12	12.3	58	59.9	97	100.0
Family enterprise								
Business.....	3	21.4	2	14.5	9	64.1	14	100.0
Fishing, own boat.....	10	37.0	4	14.8	13	48.2	27	100.0
Employees only, including fishermen crew members on shares.....	14	25.0	6	10.7	36	64.3	56	100.0

* Income-tax returns, sales-tax returns, cash books, storage and transport receipts.

\$10,000 when he had to abandon it on Terminal Island docks in February, 1942, we may suspect but we cannot be certain that he overvalued it. Tuna nets vary in size and in the quality of netting. The resultant difference in value may easily account for a differential of \$2,000-\$3,000. Actual depreciation also varies a great deal, depending on the care given the net.

The frank admission that absolute reliability cannot be claimed for some specific figures obtained by the study does not mean that the loss data should be ignored. The case cited does indicate the kind of difficulties that will be encountered in administering a loss bill. That there were substantial and often disastrous losses is beyond question.

Boat owners could either sell their boats or charter them for the indeterminate period of their absence. Net owners also had but two possible choices. They could sell their nets or store them for their own future use, but because nets deteriorate rapidly in storage, the latter was hardly an alternative. As sellers the boat owners were in a very

poor bargaining position. Pressed for time as they were, it is not surprising that only one boat was sold without loss (table 44, p. 184). Some owners tried to retain control by chartering the boats to Caucasians during the evacuation period.

B6, for example, made an agreement with Cannery A whereby the latter would get the catch and act as his agent in chartering the boat for the duration of the war. He was to receive the boat's share of 20 per cent, approximately three and three-fourths shares, of the catch returns during that time. Out of this he was to pay for the upkeep of the boat and pay the captain an extra one-fourth share. When B6 returned to Los Angeles in August, 1945, he was presented with a bill for \$7,000, which the cannery claimed had been the excess of expenses over income from the operation of the boat during his absence. Whether B6's operation of the boat during this period would have had similar results is a matter for pure speculation. He was reluctant at the time of interview to make charges of mismanagement against the agent cannery because he was negotiating with the same cannery over the loss or theft of several nets from the cannery warehouse during the war period.

Unusual risks of sale, also, were faced by boat owners. When the war began, a Nisei owned a fantail for which sale was arranged through an agent who promised to deliver the sale price "the next day." The papers transferring title had been signed, but he had received no money, and after Evacuation he lost track of the purchaser. When he returned to Los Angeles in January, 1947, he found the purchaser and at the time of interview had renewed hopes of collecting his money. Incidentally, he had learned that the boat had been put up for resale in October, 1945. This case illustrates, among other things, the ineffectiveness of the WRA property office in handling even the most blatant instances of fraudulent practice. We suggest that even a gesture at making recovery would have been effective, for the date on which the boat was put up for resale, October, 1945, coincides much too closely with the time of the closing of the centers. The "purchaser" seems to have been remarkably alert to what was going on in the relocation centers.

Discriminatory legislation against Issei that prohibited them from owning large fishing craft made them especially vulnerable to exploitation. However, the boats could be owned by United States citizens who had reached majority, and, as for real estate, title was vested in Nisei relatives or other citizens. Frequently, arrangements were made with one of the canneries with which the Issei had done business. Legally, the citizen-owner was expected to have a 51 per cent interest in the boat. In

TABLE 43
ITEMIZED EQUIPMENT LOSSES OF 1941 BOAT AND EQUIPMENT OWNERS
(Parker Interviews)

Case	Equipment	1942 value	Disposition	Loss on item	Total loss	Re- marks
B1	Tuna net.....	\$8,000	Forfeited			
	Sardine net.....	3,000	Forfeited			
	Mackerel net.....	3,000	Forfeited			
	Bait net.....	300	Forfeited			
	Miscellaneous.....	250	Forfeited		\$9,950	(a)*
B2	Bait net.....	500	Abandoned	\$ 500		
	Rope, leads, corks, lures, lines, etc.....	600	Abandoned	600	1,100	
B3	Tools.....	100	Abandoned	100		
	Lines.....	150	Abandoned	150	250	
B4	Sardine net.....	4,400	Sold	1,400	1,400	
B5	Bait, motor, rope, jigs, lines, etc.....	250	Abandoned	250	250	
B6	Sardine net.....	?	Stored	?	?	(b)
	Tuna net.....	?	Stored	?	?	
B7	Lures.....	200	Abandoned	200	200	
B8	Rope.....	350	Sold	345		
	Lines, jigs, anchor, chain, etc.....	42	Abandoned	42	387	
B9	Corks.....	680	Stored	680		
	Rope.....	540	Stored	540		
	Netting.....	225	Stored	225		
	Miscellaneous.....	400	Stored	400	1,840	(c)
B10	Mackerel net.....	2,000	Stored	2,000		
	Sardine net.....	3,000	Stored	3,000		
	Bait net.....	1,000	Stored	1,000		
	Tuna net.....	4,000	Stored	4,000		
	Miscellaneous.....	300	Stored	300	10,300	(d)
B11	Tuna net.....	7,000	Stored	7,000		
	Sardine net.....	5,000	Stored	5,000		
	Mackerel net.....	4,000	Stored	4,000	17,500	(e)
B12	Equipment sold with boat; no itemized loss obtainable					
B13	Bait net.....	325	Sold	315		
	Gill net.....	600	Abandoned	600	915	
B15	Equipment sold with boat; no itemized loss obtainable					
B16	None					
B17	Sardine net.....	5,500	Sold	5,500		
	Bait net.....	500	Sold	500	6,000	(f)
E1	Mackerel net.....	3,000	Abandoned	3,000		
	Bait net.....	300	Abandoned	300	3,300	
E2	Engineer's tools.....	90	Abandoned	90	90	
E3	Tuna net.....	4,500	Stored	4,500	4,500	(g)
E4	Tuna net.....	3,500	Stored	3,500		
	Sardine net.....	3,000	Sold	2,400		
	Mackerel net.....	1,000	Stored	1,000		
	Bait net.....	450	Stored	450		
	2 wagons.....	30	Abandoned	30	7,380	(h)
E5	Tuna net.....	10,000	Stored			
	Sardine net.....	9,000	Stored			
	Bait net.....	5,000	Stored			
	Radio-telephone.....	500	Stored			
	Engineer's tools.....	450	Stored		21,150	(i)
E6	Tuna net.....	7,000	Stored			
	Sardine net.....	1,700	Stored			
	Cork and leads.....	1,000	Stored			
	Rope.....	200	Stored		7,400	(j)

* See footnotes to table.

TABLE 43—Continued

Case	Equipment	1942 value	Disposition	Loss on item	Total loss	Re- marks
E7	300 yds. set lines.....	\$ 90	Sold	\$ 45	\$ 45	
E8	Bait net.....	850	Abandoned	850		
	Lines and lures.....	1,115	Abandoned	1,115		
	Engineer's tools.....	45	Abandoned	45		
	Carpenter tools.....	75	Abandoned	75	2,085	
E9	Tuna net.....	3,500	Sold			
	Sardine net.....	1,500	Sold			
	Mackerel net.....	1,500	Sold			
	Netting.....	1,000	Sold			
	Rope and leads.....	500	Sold		5,000	
E10	Tuna net.....	7,000	Sold	10,500 to		
	2 sardine nets.....	8,000	Sold	13,150		(k)
	Mackerel net.....	3,500	Abandoned	3,500		
	Netting, rope, cork, and leads.....	5,000	Abandoned	5,000	19,000 to	
E11	2 skiffs.....	175	Abandoned	175	21,650	
	2 sets of oars.....	15	Abandoned	15		
	Lures.....	50	Abandoned	50		
	Tools.....	20	Abandoned	20	260	
E12	Bait tank.....	300	Abandoned	300		
	Bait net.....	400	Stored	400		
	Tools.....	250	Stored	250	950	(l)
E13	Lines and lures.....	100	Abandoned	100	100	
E14	Tuna net.....	1,500	Stored	1,500		
	Sardine net.....	1,000	Stored	1,000		
	Mackerel net.....	1,000	Stored	1,000		
	Bait net.....	850	Stored	850		
	Rope.....	300	Stored	300		
	Miscellaneous.....	125	Abandoned	125	4,775	(m)
E15	Sardine net.....	6,000	Abandoned	6,000	6,000	
E16	Engineer's tools.....		Stored		None	(n)
E17	Lines and lures.....	200	Abandoned	200	200	
E18	Bait net.....	500	Abandoned	500	500	
E19	Rope, lines, and lures.....	500	Abandoned	500	500	
E20	Bait net.....	800	Abandoned	800		
	Gill net.....	1,500	Abandoned	1,500		
	Brail net and tools.....	1,000	Abandoned	1,000	3,300	
E21	Boots, raincoat, gloves, etc.....	110	Abandoned	110	110	

* Property stored; then seized and sold under federal supervision to liquidate a debt on the nets. Loss is the value of the property less the amount of the debt. B1 received no return from the sale.

^b Netting rotted; corks, ropes, and leads stolen. B6 declined to set a value on them. He considers the cannery responsible for part of his loss and is still negotiating with them.

^c Missing from storage.

^d Deteriorated beyond use while in storage.

^e Deteriorated beyond use while in storage. Total loss includes \$1,500 in storage fees paid over a four-year period.

^f Sold by the cannery, which did not reimburse B17.

^g Netting rotted; corks, leads, and ropes stolen from storage.

^h Nets left in cannery warehouse with understanding that there would be no storage fees. While E4 was interned the warehouse was sold. The new owner claimed storage fees at the rate of 4¢ per square foot had accumulated to the sum of \$780, and in 1944 demanded this sum at once. E4 let the nets go for storage, since he could not handle the matter himself while still in camp, and assumed that the nets had already rotted.

ⁱ Property sold under federal supervision to settle a debt. E5, in relocation center, received nothing from the sale. Loss total is the value less the \$3,800 debt.

^j Property stored in 1942. Later claimed and sold by a hardware company to cover an unpaid balance due on nets. Loss total is value of the property less the \$2,500 debt.

^k Tuna and sardine nets sold for \$4,500. Payment on the check was stopped by a lien placed against it by a cannery for alleged debts. E10 denies the debt and is suing for the rest of the \$4,500. Loss on nets will depend on outcome of the suit.

^l Stolen from storage.

^m Stored items deteriorated or were damaged beyond use.

ⁿ Still in storage.

TABLE 44
OCCUPATIONAL PROPERTY LOSSES OF 1941 BOAT OWNERS
(Parker Interviews)

Case	Ownership of boat	Type of boat	Length of boat (feet)	1942 value	Disposition	Loss on boat	Loss on equipment*	Total loss
B1	Individual.....	Purse seiner.....	64	\$15,000	Forced sale.....	\$ 3,000	\$ 9,950	\$12,950
B2	Individual.....	Jig.....	?	1,500	Forced sale.....	800	1,100	1,900
B3	Individual.....	Jig.....	?	1,500	Forced sale.....	700	250	950
B4	Buying on time.....	Purse seiner.....	70	Equity of 15,000	Repossessed (nonpayment).....	15,000	1,400	16,400
B5	Buying on time.....	Fantail.....	38	Equity of 900	Repossessed (nonpayment).....	900	250	1,150
B6	Individual.....	Purse seiner.....	80	.....	Chartered.....	7,000 ^b	In dispute	?
B7	Individual.....	Purse seiner.....	70	35,000	Forced sale.....	None	200	200
B8	Individual.....	Jig.....	41	1,300	Forced sale.....	900	387	1,287
B9	Corporation.....	Purse seiner.....	70	Equity of 11,000	Forced sale.....	3,000	1,840	4,840
B10	Individual.....	Purse seiner.....	74	14,000	Forced sale.....	10,000	10,300	20,300
B11	Corporation.....	Purse seiner.....	74	Equity of 7,500	Sale.....	1,000	17,500	18,500
B12	Individual.....	Jig.....	45	1,200	Sale.....	600	None	600
B13	Individual.....	Fantail.....	48	10,000	Forced sale.....	10,000 ^c	915	10,915
B14	Individual.....	Jig.....	?	1,000	Forced sale.....	700	?	?
B15	Individual.....	Jig.....	32	1,000	Forced sale.....	200	None	200
B16	Corporation ^d	Purse seiner.....	110	65,000	Sale.....	34,000	None	34,000
B17	Corporation.....	Jig.....	?	?	Sale.....	?	6,000	?

* See table 43 for itemized statement.

^b Deficit from operation while chartered.

^c Unable to collect sale price (\$5,000).

^d Four Nisei with equal interests comprised the corporation. See pp. 179-180 of text for discussion of this case.

practice some of these arrangements were merely paper transfers supplemented with verbal agreements that left the Issei owner complete boss of his own boat. The legal position of such Issei owners was very precarious even in normal times. The following case may suggest the weakness of their position during the war.

B10 purchased a seiner in 1924. When the alien ownership restrictions were passed, he transferred 51 per cent of the stock to Cannery H, with the verbal agreement that this stock would be reassigned to his Nisei son when the latter became of age. When the war intervened, the boat was sold outright to Cannery H because it would have been too expensive to leave it idle for the duration. The price received was about one-third of B10's estimate of the boat's value.

Losses among equipment owners were not aggravated by restrictions on ownership. Sales of nets were, however, made hurriedly and at a loss. Many net owners tried to store their nets until they could return and use them. There were three types of loss while in storage. The netting deteriorated in storage; if the nets had been used before storage, there was little left of the netting when the owners reclaimed them three or more years later. Corks, leads, and ropes often remained in a good state of preservation, but these represented a small part of the total value of the original net. These durable parts were sometimes missing from storage when the owners went to reclaim their property. Owners generally charged that the warehouse management, usually canneries, had let other men go in and pick over the stored nets for what they wanted. Some fishermen suspected that the corks, leads, and ropes had been sold by the warehouse management. The third type of storage loss resulted from the payment of storage fees. One Issei was still paying fees on nets in storage at the time of his interview, although he had already paid approximately \$1,500. Often the net owners were unable to pay storage for long periods and let their equipment go for storage costs. Some net owners found sympathetic warehousemen who permitted them to store their equipment without charge, but when such arrangements were made neither party realized how long the need would last. When the storage period became burdensomely long or when the responsibility conflicted with the warehouseman's wants, the evacuee's interest suffered.

E4 left his nets in Cannery G's warehouse with the understanding that no fees would be asked. During the war the warehouse was sold. In September, 1944, he received a letter from the lawyer of the new owner claiming \$760 in storage fees and stating that the nets would be sold if the fees were not paid. Unable to pay the fees, E4 now presumes that

TABLE 45
PREWAR AND POSTWAR OCCUPATIONAL AND INCOME DISTRIBUTIONS BY INDIVIDUAL WORKERS
(Terminal Island Survey)

Class of worker and occupation	1941		1946		Annual income*		1941		1946	
	No.	Percentage	No.	Percentage	Total	No.	Percentage	No.	Percentage	
Total	188	100.0	188	100.0		188	100.0	188	100.0	
Own enterprise	42	22.4	14	7.4	\$10,000 or more	0	0.0	0	0.0	
Contract gardening	2	1.1	12	6.4	5,000-9,999	2	1.6	2	1.6	
Produce	1	0.5	1	0.5	4,000-4,999	8	4.3	1	0.5	
Fishing, own boat	27	14.4	0	0.0	3,000-3,999	12	6.3	4	2.1	
Others	12	6.4	1	0.5	2,500-2,999	9	4.8	1	0.5	
Unpaid family workers	21	11.2	0	0.0	2,000-2,499	6	3.2	13	6.9	
Fishermen	7	3.8	0	0.0	1,800-1,999	10	5.3	7	3.7	
Others	14	7.4	0	0.0	1,600-1,799	10	5.3	8	4.3	
Wage and salary workers	125	66.4	125	66.5	1,400-1,599	18	9.5	9	4.8	
Professional, semiprofessional, and managerial	6	3.2	0	0.0	1,200-1,399	17	9.0	6	3.2	
Clerical and sales workers	4	2.1	2	1.1	1,000-1,199	14	7.4	17	9.0	
Craftsmen and foremen	1	0.5	4	2.1	800-999	12	6.3	20	10.6	
Operatives, canning and packing	60	32.0	81	43.0	600-799	28	14.9	12	6.3	
Operatives, except canning and packing	0	0.0	7	3.7	400-599	12	6.3	10	5.3	
Domestic service workers	1	0.5	2	1.1	200-399	5	2.7	7	3.7	
Other service workers	4	2.1	2	1.1	0-199	6	3.2	4	2.1	
Farm and nursery laborers	1	0.5	13	6.9	Income not known	19	10.1	34	18.1	
Fishermen, crew	47	25.0	7	3.7	Unemployed or not in labor market	..	..	30	16.0
Other laborers	1	0.5	7	3.7	Died	..	..	3	1.6
Unemployed	0	0.0	2	1.1	Median income for all employed persons	..	..	\$1,288	\$1,088
Not in labor force	..	..	28	15.0	..	..	..	..	..
Army	..	..	5	2.8	..	..	..	..	..
Other	..	..	23	12.2	..	..	..	..	..
Employment status not known	..	..	16	8.5	..	..	..	..	..
Died	..	..	3	1.6	..	..	..	..	..

* Income from family enterprise prorated equally among family workers.

his tuna net and mackerel net have been sold. Again there is no record of WRA assistance.

Two less common cases fall in neither the boat nor equipment category. In November, 1941, E10 paid a charter fee of \$4,500 cash in advance to the "I" Boat Building Company of Tacoma, Washington, for the use of a 78-foot seiner for the duration of the sardine season. He had just got the boat into good condition and was starting out on regular sardine runs when the war began. The boat was returned to the control of its owners, but no part of his charter fee was refunded to E10.

B10 was a storekeeper on Terminal Island and also owned a seiner and \$10,000 worth of nets. As storekeeper he had extended \$25,000 in credit to individual fishermen and their families. Some of this credit had been given to the fishermen for the purchase of special nets that B10 imported for them from Japan. The rest represented charged grocery accounts. He had been unable to collect anything on these debts at the time of interview.



Table 45, based on the Terminal Island Survey, compares the distribution of occupations for Terminal Islanders in the labor force in 1941 with the distribution of occupations for the same persons in 1946. Note that the 1946 column accounts for those who were working in 1941 but not in 1946. It does not include any who entered the labor force after 1941, because our objective in the survey was to provide the basis for loss estimates. In 1941, fishermen with their own boats constituted the largest proportion of self-employed workers. In 1946 only a few workers were self-employed, as contract gardeners for the most part; none were fishermen. The absence of unpaid family workers in 1946 indicates that even the self-employed had not established family enterprises in the prewar sense. At least 15 per cent of the prewar workers did not return to the labor force. Information is lacking on the 1946 occupational status of 16 prewar workers, but most of these had retired or were wage workers. Wage and salary workers constituted about the same proportion of the labor force in 1946 as in 1941, but they were even more heavily concentrated in cannery work. There were fewer professionals, clerical workers, and fishermen crew members in 1946.

It will help in understanding what happened to the occupational status of Japanese Americans if we refer to figures 29 and 30, which show changes in status of individual workers classified by age, sex, and occupational group in 1941. On the vertical scale, occupations of wage and salary workers and unpaid family workers are arranged according

to the Census classification. We have modified the Census classification somewhat, and the order may be regarded as a rough scale of status, a composite of skill, income, and prestige. Fishermen crew members on shares are classified by the Census as laborers, but we have listed them between craftsmen and operatives in recognition of their relative skill and income. We have included, in the category of own-account workers, proprietors, who are reported by the Census together with managers, and contract gardeners and fishermen with their own boats, who are reported as laborers by the Census. Farmers and nursery operators are listed first in order to place them near other own-account workers on the scale.

Figure 29 shows that most prewar proprietors, fishermen, and unpaid family workers were employed in 1946 as laborers or fish cannery operatives or had left the labor market. Figure 30 shows the changes in occupational status of prewar wage and salary workers and fishermen crew members on shares. Of the crewmen, a few became contract gardeners, half of those in the youngest age group returned to fishing, and the majority of those over thirty years of age went to work in the fish canneries. Among females, the principal prewar occupation was fish cleaning and packing, on a seasonal and often part-time basis; they have returned to this work or left the labor market.

Of prewar Nisei fishermen interviewed by Parker, six who had not returned to fishing were engaged in factory or cannery work, contract gardening, and transient farm labor. Four of them asserted that they lacked confidence in the younger fishermen who were running the boats, and would have returned to fishing had the Issei been licensed to fish. Issei were unable to secure commercial fishing licenses in California until June, 1948.^a One Nisei who was on the crew of a local boat said that he planned to go to Astoria, Oregon, where Issei could fish. In the interviews Nisei did not imply that the Issei would give them competition for jobs. Rather, they hoped for a change in regulations that would permit the experienced Issei to rejoin the fishing fleet.

Of thirty-seven Issei interviewed by Parker (see table 46), seventeen were working in canneries at Long Beach and Wilmington. Two were selling fish and one was licensed to fish because his service in the United States Army in World War I gave him citizenship. Seven had retired because of age or illness and, with two exceptions, considered themselves permanently out of the labor market; three were gardening; and two were farming. Another had done seasonal farming during 1946, but had been employed principally as a cannery worker and has been so classified

TABLE 46
1941 ROLE AND 1946 SITUATION OF ISSEI PREWAR FISHERMEN
(Parker Interviews)

Case	Age in 1946	Prewar occupation					1946 occupation					Reason for not fishing			Present desired occupation			
		Owner-skipper	Charterer	Fish captain	Crew member	Miscellaneous	Cannery operative	Farmer, farm laborer, gardener	Miscellaneous	Retired	Unemployed	License ban	Age	Preference	Corporation purchaser	Charterer	Crew member	Retired
B2.....	60	X							X			X						X
B7.....	51			X			X				X						X	
B8.....	50	X						X			X							
B9.....	70	X					X				X			X				
B10.....	71					(a)	X				X						X	
B11.....	48	X					X				X					X		
B12.....	41	X					X				X					X		
B15.....	55	X					Fishing as crew member				X							
E4.....	45		X				X				X					X		
E5.....	63		X				X				X					X		
E6.....	58				X		X			X	X					X		
E7.....	71				X		X			X	X					X		
E8.....	69				X		X			X	X					X		
E9.....	48			X			X			X	X					X		
E10.....	57		X							X	X				X			
E11.....	59				X		X			X	X					X		X
E12.....	44					(b)	X			X	X					X		
E13.....	59				X		X			X	X					X		
E14.....	50			X			X			X	X				X			
E15.....	59				X			X			X		X	See prefer. col.				
E16.....	?					(c)	X				X							X
E19.....	63				X						X							X
E20.....	59				X						III							III
E21.....	49				X		X				X							X
C1.....	58				X		X				X							X
C3.....	47			X							X							X
C6.....	49				X		X				X							X
C7.....	45					(d)		X			X				X			X
C10.....	36				X			X			X							X
C13.....	?				X			X			X							X
C14.....	57			X				X			X							X
C16.....	61				X			X			X							X
C17.....	61				X			X			X							X
C18.....	42				X	(e)	X				X							X
C19.....	59		X				X				X							X
C21.....	55				X		X				X							X
C25.....	69				X				X		X							X
Total.....		6	4	6	16	5	17	5	6	7	2	29	5	1	1	8	19	7

^a Nonoperating owner. ^b Skipper. ^c Engineer. ^d Skiff man. ^e Cook.

TABLE 47
UNEMPLOYMENT AND INCOME OF PREWAR FISHERMEN, 1941 AND 1946
(Parker Interviews)

Case	1941			1946		
	Months unem- ployed*	Average earnings per month worked	Annual income	Months unem- ployed*	Average earnings per month worked	Annual income
<i>Issei</i>						
B2.....	0	\$136	\$1,500	Retired		
B7.....	0	423	4,658	0	\$200	\$2,375
B8.....	0	673	7,500	0	133	1,600
B9.....	2	555	5,000	9	300	900
B10.....	0	136	1,500	Retired		
B11.....	0	364	4,000	8	250	1,000
B12.....	0	273	3,000	7	160	800
B15.....	?	?	?	?	180	1,800
E2.....	5	316	1,900	0	142	1,700
E4.....	?	?	?	?	82	250
E5.....	1	600	6,000	3	145	1,400
E6.....	0	47	520	Retired		
E7.....	5	100	600	?	80	80
E8.....	8	260	800	8	260	1,050
E9.....	0	140	1,680	0	145	1,751
E10.....	0	250	2,750	12	0	0
E11.....	0	150	1,800	Retired		
E12.....	0	363	4,300	12	0	0
E13.....	4	214	1,500	5	100	700
E14.....	0	133	1,500	2	177	1,775
E15.....	7	725	2,900	0	170	2,040
E16.....	2	133	1,200	?	?	?
E19.....	0	164	1,800	Retired		
E20.....	0	409	4,500	Retired		
E21.....	3	125	1,000	2	257	1,800
C1.....	1	100	1,000	0	100	1,200
C3.....	0	209	2,300	3	200	1,800
C6.....	0	164	1,800	3	166	1,500
C7.....	6	340	1,700	0	167	2,000
C10.....	0	175	2,100	0	185	2,220
C13.....	2	122	1,100	?	?	?
C16.....	0	150	1,800	5	150	1,040
C17.....	0	145	1,600	3	166	1,500
C18.....	0	173	1,900	0	191	2,287
C19.....	3	278	2,222	9	98	295
C21.....	0	127	1,400	0	173	2,077
C25.....	?	?	700	Retired		

* See footnote to table.

TABLE 47—Continued

Case	1941			1946		
	Months unem- ployed*	Average earnings per month worked	Annual income	Months unem- ployed*	Average earnings per month worked	Annual income
<i>Nisei</i>						
B1.....	?	?	\$1,500	?	?	\$ 700
B3.....	0	\$273	3,000	0	\$160	1,500
B4.....	0	318	3,500	0	250	1,500
B5.....	0	409	4,500	0	375	4,500
B6.....	0	181	2,000	0	150	1,500
B13.....	5	50	300	Army		
B16.....	0	150	1,800	6	250	1,500
B17.....	5	200	1,200	0	120	480
E1.....	3	312	2,500	Army		
E3.....	1	307	3,073	2	175	1,750
C2.....	0	250	3,000	0	158	1,900
C4.....	0	273	3,000	4	240	1,920
C5.....	0	374	4,117	0	180	1,800
C8.....	2	133	1,200	3	255	2,300
C9.....	0	300	3,600	8	180	700
C11.....	0	636	7,000	?	?	?
C15.....	1	300	3,000	0	283	3,400
C20.....	1	120	1,200	1	150	1,200
C22.....	2	133	1,200	0	183	2,200
C23.....	0	227	2,500	4	40	317
C24.....	0	250	3,000	2	100	1,000

* Unemployed means not working and seeking work. It does not include time during vacations, illnesses, etc. December, 1941, when almost all fishing was suspended, and any time spent in relocation centers in early 1946, are also excluded from unemployment calculations.

in our data. Of the rest, two were unemployed throughout 1946, one was a laborer at a ship supply company, one was a dishwasher, and another operated a filling machine in a mattress factory. In summary, nearly one-fifth of the Issei interviewed had retired. Of those working, two-thirds found jobs in the fishing and canning industries, five were in farming or gardening, and the rest were in diverse occupations. Because repatriation figures are not broken down by occupations, we do not know how many prewar fishermen were repatriated to Japan. A former official of the Southern California Japanese Fishermen's Association estimated that about half of the Issei returned to Japan.

Almost all employed Issei (28) asserted that only their inability to secure licenses kept them from fishing. A single respondent said that he

preferred the job he then held, and seven reported that they were too old to fish. Of those who wished to resume fishing, nineteen planned to be crew members, one wished to help his son purchase a seiner, and eight intended to charter boats. However, five of those who said they would like to return to fishing may have been too old for the rather strenuous life, and it is too early to estimate the effects of the Supreme Court decision on Issei employment.

As fishermen the Issei were skilled workmen, but in their 1947 jobs they were unskilled laborers and their pay was below their expected earnings in fishing. Had it been possible for the Nisei to work with the Issei, the former would also have had greater earnings because of more efficient operations. Furthermore, because of additional apprenticeship training the Nisei would continue to be more productive after the Issei retired.

Other variables affect the reestablishment of Japanese Americans in the fishing industry. The vacancies left by them were filled after the Evacuation, although often at a lower level of skill. In 1945, 1946, and 1947, sardines were scarce in northern waters; so the smaller fishing fleets from Monterey and San Francisco moved into the Los Angeles area. Although the 1946 Los Angeles sardine catch was good, the yield per boat was reduced by this additional competition. In 1947 the Los Angeles sardine catch was poor.²⁹ Up to the time of our survey in 1947, only about one-tenth of the approximately 550 prewar Japanese American fishermen had been able to reënter the local industry. We estimated that less than half of prewar Issei fishermen, who had numbered less than 400, were prepared to return to fishing.

Table 45 gives the distribution of individual workers from Terminal Island by income level in 1941 and 1946. Note the absolute drop in median income in 1946. In chapter ii we analyzed the implications for Japanese Americans of the general rise in income and price levels between 1941 and 1946. The income level of Terminal Islanders relative to the rest of the Japanese American population may be seen in figure 8 and by comparing tables 15 and 45. In the prewar period the median income of Terminal Island workers was somewhat higher than that of other Japanese Americans, but fewer workers from Terminal Island had very high or very low incomes. The same situation obtained in per worker income, shown in table 16.

The mean period of unemployment³⁰ was 19.35 weeks. Of 141 prewar residents of Terminal Island in the labor force in 1946, 88, or 62.5 per cent, were unemployed for some part of the year. The mean period of

unemployment was 24.71 weeks. (See table 17.) The Parker survey (see table 47) found that, of 34 Issei fishermen for whom 1941 unemployment data were available, 13 had been unemployed for an average of 3.8 months. Of this sample, we secured information on 25 who were in the 1946 labor force; 15 of them were unemployed in 1946 for an average of 6.1 months. Similarly, for a Nisei sample of 21, 8 had been unemployed in 1941 for an average of 2.5 months; of 17 for whom we have 1946 data, 8 were unemployed for an average of 3.8 months. The Issei suffered relatively more than the Nisei both in rate and duration of unemployment during resettlement. The median annual income for 56 fishermen in 1941 was \$1,900. Of 46 who were again in the labor force and for whom we have 1946 data, the median annual income was \$1,500, or less than 80 per cent that of 1941, in spite of the higher general wage and price level.

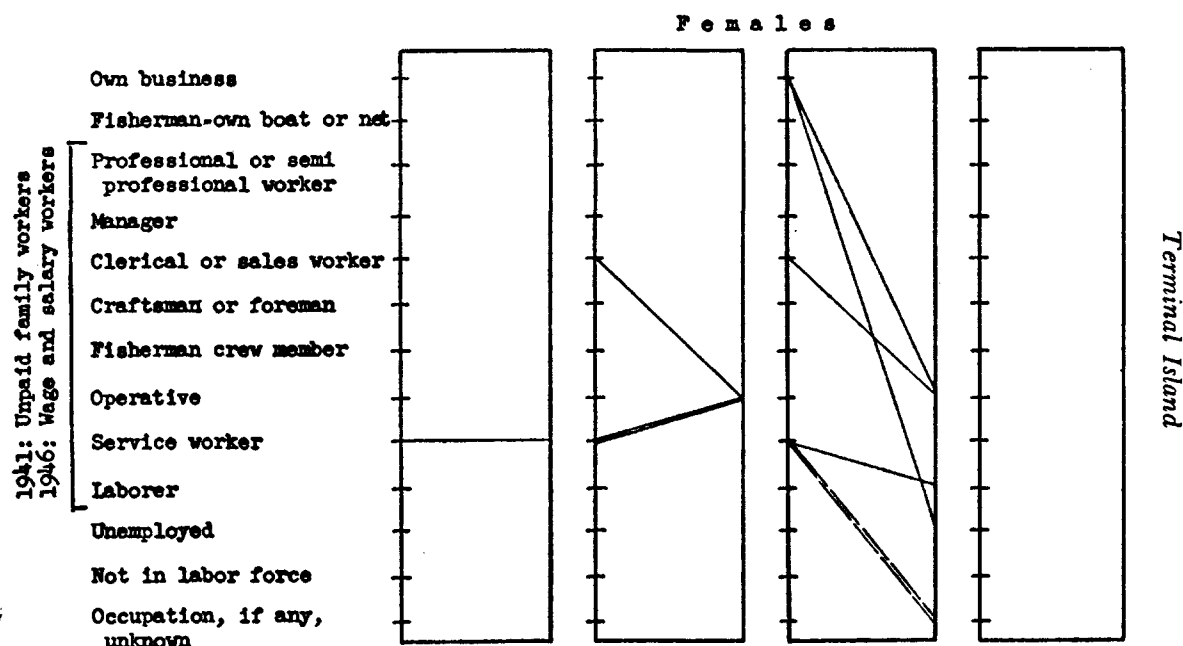
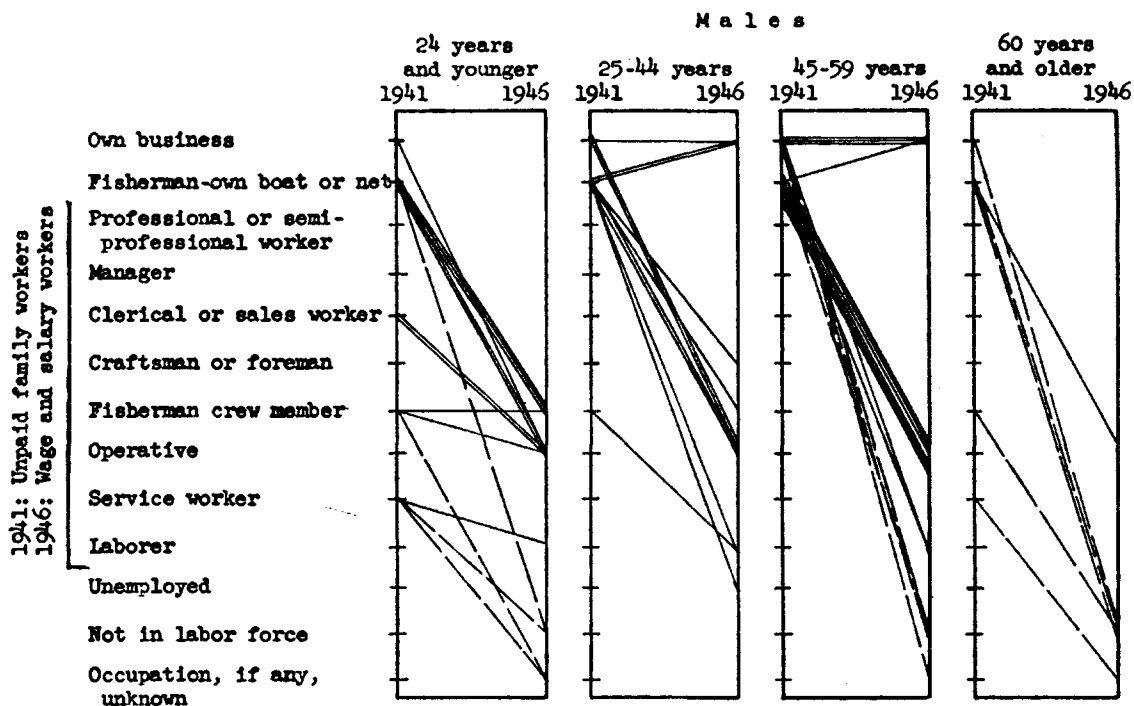


Fig. 29. Changes in occupational status, prewar workers in family enterprise: Business and fishing boat or net owners, by sex and age, 1942. (Terminal Island Survey)

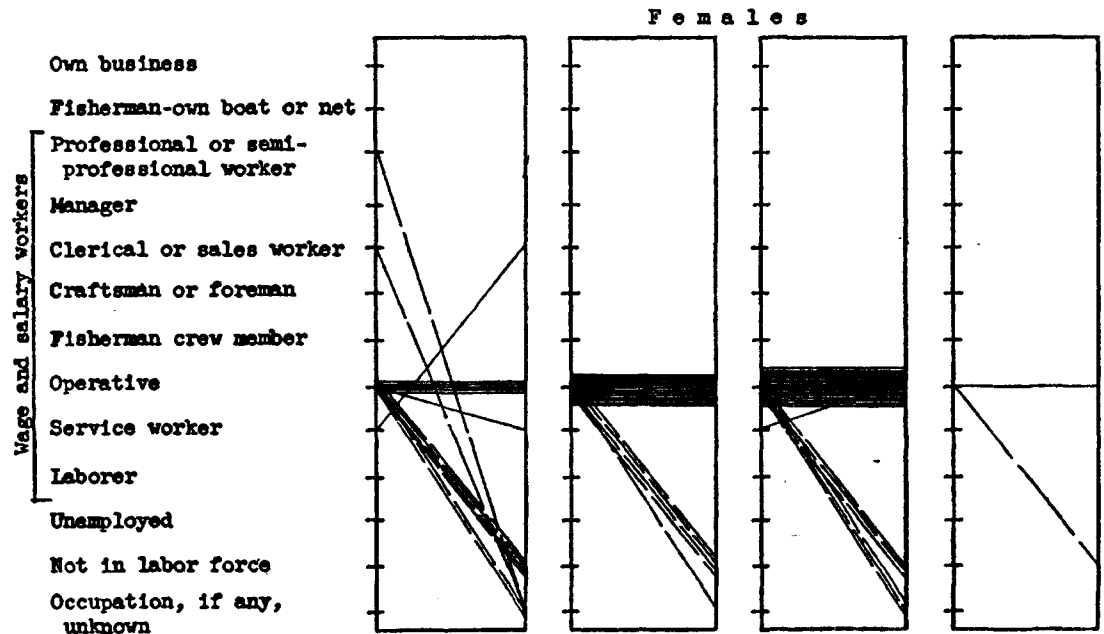
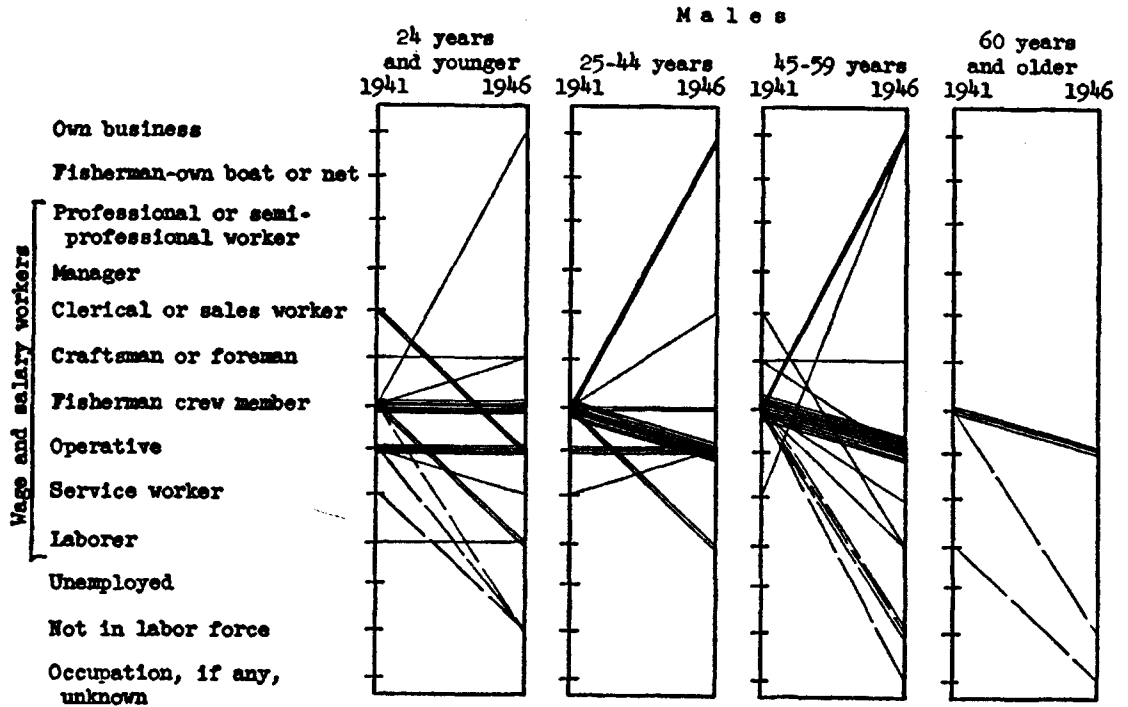


Fig. 30. Changes in occupational status, prewar wage and salary workers and fishermen crew members, by sex and age, 1942. (Terminal Island Survey)

NOTES TO CHAPTER V

¹ In brief compass the most effective discussion was the article by E. V. Rostow, "Our Worst Wartime Mistake," in *Harper's*, Vol. 191 (September, 1945), pp. 193-201.

² WRA, *The Wartime Handling of Evacuee Property*, p. 11.

³ WCCA *Final Report*, p. 29. Italics supplied.

⁴ *Ibid.*, p. 41.

⁵ Detailed cases are from our Loss Survey. All names are fictitious.

⁶ FSA *Final Report*, Exhibit 1.

⁷ See WRA, *op. cit.*, pp. 47-69.

⁸ Press release of March 18. Federal Reserve Bank *Report*, Exhibit E. Italics supplied.

⁹ Claims Bills *Hearings*, p. 70. The infelicities of expression in the *Hearings* may be due in part to faulty stenographic transcription.

¹⁰ *Ibid.*, pp. 70-71.

¹¹ WCCA, Form FRB-2, Personal Property Form, used to list property delivered to Federal Reserve Bank for storage in government warehouses. Italics supplied.

¹² WCCA, "Instructions to Evacuees Regarding Disposition of Motor Vehicles." Federal Reserve Bank *Report*, Exhibit 69.

¹³ Claims Bills *Hearings*, pp. 26-27. Italics supplied.

¹⁴ *Ibid.*, pp. 27-28. Italics supplied.

¹⁵ *Ibid.*, p. 71.

¹⁶ WRA, *Legal and Constitutional Phases of the War Relocation Authority Program*, pp. 56-57.

¹⁷ See Appendix C.

¹⁸ See chap. vi.

¹⁹ FSA *Final Report*. Table 4.

²⁰ See chap. i.

²¹ Figures on the total evacuated population are based on a 10 per cent random sample analyzed in Bloom, "Transitional Adjustments of Japanese American Families to Relocation," in *American Sociological Review*, Vol. 12 (April, 1947), pp. 201-209.

²² We obtained records of 1942 family members who were no longer living with the group, but no record of additions to the family since 1942. This information was not necessary for calculation of losses through Evacuation and to obtain it would have lengthened the interviews.

²³ Data for "all families" are for August, 1945.

²⁴ See chap. ii and fig. 8, p. 54.

²⁵ For a discussion of claims legislation see chap. vii.

NOTES TO CHAPTER VI

¹ This chapter is based on the following samples:

A. Ninety-seven families who were prewar Terminal Island residents. Data on the losses of these families, referred to as the Terminal Island Survey, were obtained at the same time as the Loss Survey sample discussed in chap. v. (Prewar Terminal Island residents are excluded from all tables and figures labeled "Loss Survey.") They are analyzed separately because of the different circumstances of the Evacuation of Terminal Island and the highly specialized nature of the prewar community.

B. A series of intensive interviews with 63 prewar fishermen who returned to the Los Angeles area. These were conducted by Gilbert Parker with the assistance of Hiroshi Ito, using schedules presented in Appendix C. These two samples overlap in

regard to the occupational property of fishermen, but the different points of view make it advantageous to discuss the findings separately.

² See fig. 21, p. 154.

³ U. S. Census, 1940. "Japanese, Chinese, and Filipino Population by Sex and Nativity for Los Angeles and Long Beach Cities by Census Tracts." Unpublished special tabulation.

⁴ K. Kawasaki, "The Japanese Community of East San Pedro."

⁵ U. S. Census, 1940. *Housing. Los Angeles Block Statistics*. Table 3, Census Tract 294.

⁶ U. S. Circuit Court of Appeals for the Ninth Circuit. No. 11638. *Transcript of Record*.

⁷ U. S. Census, 1940. WCCA *Bulletin* 12.

⁸ Courtesy of the former executive secretary of the Association.

⁹ Kawasaki, *op. cit.*, p. 166.

¹⁰ Of the 85 Issei family heads in the Terminal Island Survey, 55 were detained.

¹¹ The Harbor Department of Los Angeles has no information about the procedures of evaluation and disposal. (Letter from the general manager, March 25, 1948.)

¹² M. E. Opler, "The Repatriate-Expatriate Group of Manzanar," pp. 36-40.

¹³ From our tabulations of a 10 per cent sample of WCCA, SDR forms.

¹⁴ The mean number of persons per household was 4.2 in both the Census and our sample. $\chi^2 = 10.569$, with a probability of 18.9 per cent that a random sample would give no closer fit.

¹⁵ See Leonard Bloom, "Transitional Adjustments of Japanese American Families to Relocation," in *American Sociological Review*, Vol. 12 (April, 1947), pp. 201-209.

¹⁶ Kawasaki, *op. cit.*, p. 15.

¹⁷ No Census data on occupations of individual Japanese Americans on Terminal Island are available. Comparison of the survey sample was made with our 20 per cent random sample from WRA Form 26, and differences are well within sampling error.

¹⁸ Bloom, *loc. cit.*

¹⁹ See chap. v.

²⁰ See figs. 16-18, pp. 146, 148, 149.

²¹ A law passed in 1943 and amended in 1945 denied commercial fishing licenses in California to aliens ineligible to citizenship. The law was challenged in the Takahashi case and was declared unconstitutional in the Superior Court, but was upheld by the California Supreme Court in October, 1947. On appeal to the U. S. Supreme Court the law was declared unconstitutional on June 7, 1948.

²² The Los Angeles *Times* for November 28, 1947, reported 76,550 tons of sardines, compared with 120,418 for the same period in 1946.

²³ "Unemployed" was defined as able to work and seeking work.

NOTES TO CHAPTER VII

¹ See Appendix B.

² Estimates in this chapter referring to the total population are conservative throughout because they are based on our sample from the Loss Survey. For data on representativeness of the sample, see chap. v.

³ Claims Bills *Hearings*, p. 28.

⁴ *Ibid.*, p. 100.

⁵ *Ibid.*, p. 104.

⁶ There were 76,829 persons eighteen years of age or older in 1942 who were in relocation centers. WRA, *The Evacuated People*, p. 96.

pp. 40 (D. Ore. 1942).
46 F. Supp. 657 (W.D. Wash. 1942).
320 U.S. 81 (1943); *Yasui v. United*

clusion Program and Other Controls
r No. 9066," p. 13, in *Supplemental*
l by the Western Defense Command,
cted and sentenced to five months; he
volving Western Defense Command."
ous case of Fred Korematsu, an Amer-
is facial features surgically changed so
a ethnic Japanese and thus be able to
nese fiancée, does not properly fit the
conviction for violating the exclusion
ne Court's major review of the consti-
id is discussed later.

86 (E.D. Wisc. 1942); see also "Histor-
use Command," p. 1. NARS. RC-2
ed comments, April 17, 1942. NARS
89 (D. Mass. 1943); *Schueler v. Dr.*

Mass. 1943).
Mass. 1943).

Economic Loss

4

1. 50 U.S.C. App. §1981 *et seq.*
2. 50 U.S.C. App. §1981(a).
3. 1948 U.S. Code Cong. Serv. 2297.
4. Testimony, William Lengacher, Washington, DC, July 14, 1981, pp. 153-54; Department of Justice, unpublished internal report of the Japanese Claims Section on the administration of the Japanese Evacuation Claims Act, undated (circa 1959) and unpaginated (the Commission has numbered the pages 27017-279) [hereafter "DOJ Report"] (CWRIC 27105).
5. DOJ Report (CWRIC 27098-100).
6. Hearings before Subcommittee No. 5 of the Committee on the Judiciary, U.S. House of Representatives, on HR 7435, (83rd Cong., 2d Sess. (1954), Serial No. 23 [hereafter "1954 Hearings"], p. 18a.
7. Leonard Broom and Ruth Riemer, *Removal and Return* (Berkeley: University of California Press, 1949), pp. 202-04. Broom changed his name from "Bloom;" for the sake of consistency, he is referred to here solely by the name of his choice.
8. F. G. Mittelbach, "Concepts and Methods in a Potential Study of Losses Among Japanese American Evacuees in 1942 and Later," paper prepared for the Commission, 1982 (CWRIC 26051-71).
9. 1954 Hearings, p. 42a.
10. Lon Hatamiya, "The Economic Effects of the Second World War Upon Japanese Americans in California," testimony of the Japanese American Citizens League National Committee for Redress, Dec. 23, 1981, p. 168.
11. *Ibid.*, p. 172.
12. E.g., Roger Daniels, *Concentration Camps USA: Japanese Americans and World War II* (New York: Holt, Rinehart & Winston, 1972), p. 168.
13. HR Report No. 1809, 84th Cong., 2d Sess. (1956), p. 5.
14. DOJ Report (CWRIC 27144).
15. HR Report No. 1809, 84th Cong., 2d Sess. (1956).
16. DOJ Report (CWRIC 27278).
17. 50 U.S.C. App. §1984.
18. DOJ Report (CWRIC 27211).
19. *Ibid.* (CWRIC 27160).
20. *Ibid.* (CWRIC 27162).
21. *Claim of George Tsuda*, Adjudications of the Attorney General of the United States, Precedent Decisions Under the Japanese Evacuation Claims Act, 90 (1950).

22. *Claim of Shigemi Orimoto*, Adjudications of the Attorney General of the United States, Precedent Decisions Under the Japanese Evacuation Claims Act, 103 (1950).
23. DOJ Report (CWRIC 27144).
24. Testimony, Mitsuo Usui, Los Angeles, Aug. 5, 1981, p. 26.
25. Testimony, Elsie Hashimoto, Los Angeles, Aug. 5, 1981, p. 139.
26. Testimony, George Matsumoto, San Francisco, Aug. 13, 1981, p. 119.
27. Testimony, Tom Hayase, San Francisco, Aug. 11, 1981, p. 127.
28. U.S. Department of the Interior, *People in Motion: The Postwar Adjustment of the Evacuated Japanese Americans* (Washington, DC: U.S. Government Printing Office, undated [circa 1947]), pp. 57-59.
29. *Ibid.*; Adon Poli, *Japanese Farm Holdings on the Pacific Coast* (Davis, CA: University of California at Davis, College of Agriculture, December 1944) (CWRIC 14405-34).
30. Laurence I. Hewes, Jr., *Final Report of the Participation of the Farm Security Administration in the Evacuation Program of the Wartime Civil Control Administration, Civil Affairs Division, Western Defense Command and Fourth Army, March 15, 1942 through May 31, 1942* [hereafter "Final Report of FSA"] (CWRIC 4540-74).
31. Laurence I. Hewes, Jr., *Supplemental Report of the Participation of the Farm Security Administration in the Evacuation Program of the Wartime Civil Control Administration, Civil Affairs Division, Western Defense Command and Fourth Army in Military Area Number 2, June 1, 1942 through August 8, 1942* [hereafter "Supplemental Report of FSA"] (CWRIC 1150-608).
32. Masakazu Iwata, "The Japanese Immigrants in California Agriculture," *Agricultural History*, vol. 36, Jan. 1962, pp. 33-34.
33. Testimony, Mary Tsukamoto, San Francisco, Aug. 12, 1981, p. 70.
34. Testimony, Henry Sakai, Los Angeles, August 4, 1981, p. 234.
35. Written testimony, Clarence Nishizu, Los Angeles, Aug. 4, 1981.
36. Unsolicited testimony, Fred Manaka, Long Beach, CA.
37. Testimony, Jack Fujimoto, Los Angeles, Aug. 5, 1981, p. 60.
38. Testimony, Hiroshi Kamei, Los Angeles, Aug. 6, 1981, p. 243.
39. Testimony, Mike Umeda, San Francisco, Aug. 12, 1981, p. 124.
40. Report of managing secretary of the Western Growers Protection Association, Dec. 1942, reprinted in Morton Grodzins, *Americans Betrayed* (Chicago: University of Chicago Press, 1949), p. 59.
41. Testimony, Vernon Yoshioka, Los Angeles, Aug. 6, 1981, p. 111.
42. Testimony, Heizo Oshima, San Francisco, Aug. 13, 1981, p. 122.
43. *Ibid.*, pp. 120-21.
44. Testimony and written testimony, Mary Ishizuka, Los Angeles, Aug. 5, 1981, p. 231.
45. Testimony and written testimony, Jack Fujimoto, Los Angeles, Aug. 5, 1981, p. 59.
46. Final Report of FSA, pp. 5-6.
47. Memo, James F. van Loben Sels to Tom C. Clark, Coordinator, Economic Alien Control, WDC, Feb. 23, 1942; letter, Clark to T. M. Bunn, Salinas Valley Exchange, March 12, 1942; letter, Clark to Harold J. Ryan, Agricultural

- Resources and Production Committee, Los Angeles County Defense Council, March 10, 1942, DOJ 146-13-7-2-0 (CWRIC 12067; 12078; 12075).
48. Letter, Clark to Ryan, March 10, 1942, DOJ (CWRIC 12075).
49. Letter, Clark to C.D. Nickelsen, County Judge, Hood River, Oregon, March 13, 1942, DOJ (CWRIC 12086).
50. Testimony, Dick Nishi, San Francisco, Aug. 12, 1981, p. 121.
51. Testimony, Ben Yoshioka, Chicago, Sept. 22, 1981, p. 128.
52. Testimony, Shigeo Wakamatsu, Chicago, Sept. 23, 1981, p. 68.
53. Hearings before the Select Committee Investigating National Defense Migration, statement by Emergency Defense Council, Seattle chapter, Japanese American Citizens League; U.S. House of Representatives, 77th Cong., 2d Sess. 1942, p. 11454.
54. Testimony, Shokichi Tokita, Seattle, Sept. 10, 1981, p. 185.
55. Testimony, Shuzo Kato, Seattle, Sept. 9, 1981, p. 199.
56. Testimony, Ben Yoshioka, Chicago, Sept. 22, 1981, pp. 127-28.
57. Testimony, Hosen Oshita, Chicago, Sept. 22, 1981, p. 355.
58. Testimony, Elaine Hayes, Seattle, Sept. 9, 1981, p. 224.
59. Testimony, Kinnosuke Hashimoto, New York, Nov. 23, 1981, p. 123.
60. Unsolicited testimony, George Yoshida, Los Angeles.
61. Testimony, Henry Tanaka, Chicago, Sept. 22, 1981, p. 155.
62. Testimony, Lillian Hayano, Chicago, Sept. 22, 1981, p. 325; Teru Watanabe, Los Angeles, Aug. 6, 1981, p. 246.
63. Unsolicited testimony, George J. Kasai, San Antonio, TX.
64. Testimony, Mutsu Homma, Seattle, Sept. 9, 1981, p. 171.
65. Testimony, William Kika, San Francisco, Aug. 12, 1981, p. 139.
66. Unsolicited testimony, Susumu Myose, Northridge, CA.
67. Unsolicited testimony, Shizuka LaGrange, Seattle, WA.
68. Testimony, Hiroshi Kamei, Los Angeles, Aug. 6, 1981, p. 241.
69. J. L. DeWitt, *Final Report: Japanese Evacuation from the West Coast*, (Washington, DC: U.S. Government Printing Office, 1943), p. 135.
70. *Evacuation Operations, Pacific Coast Military Areas*, The Federal Reserve Bank of San Francisco, Dec. 31, 1942, pp. 17-18.
71. DeWitt, *Final Report*, p. 135.
72. Report of the Select Committee Investigating National Defense Migrations, HR Report No. 1911, 77th Cong., 2d Sess. (March 19, 1942), pp. 10-50; Cable, Tolan to Biddle, Feb. 28, 1942. NARS. RG 107 (CWRIC 92).
73. DeWitt, *Final Report*, pp. 127-29, 136-38.
74. Report of Select Committee (March 19, 1942), p. 19.
75. Dillon S. Myer, *Uprooted Americans: The Japanese Americans and the War Relocation Authority During World War II* (Tucson, AZ: University of Arizona Press, 1971), p. 253.
76. Dillon S. Myer testimony on Evacuation Claims bill, reprinted in Brown and Riemer, *Removal and Return*, p. 129.
77. Poli, *Japanese Farm Holdings*, p. 17.
78. Testimony, Hiroshi Kamei, Los Angeles, Aug. 6, 1981, p. 241.
79. Unsolicited testimony, Henry Yoshitake, Montebello, CA.
80. Testimony, Yasuko Ito, San Francisco, Aug. 13, 1981, p. 52.
81. Unsolicited testimony, Roy Abbey, San Francisco, CA.

82. Testimony, Joe Yamamoto, Los Angeles, Aug. 4, 1981, p. 239.
83. Testimony, John Kimoto, Chicago, Sept. 23, 1981, p. 85.
84. Testimony, Kimiyo Okamoto, San Francisco, Aug. 12, 1981, p. 239.
85. Testimony, Murako Kato, Seattle, Sept. 10, 1981, p. 40.
86. Testimony, Esther Takei Nishio, Los Angeles, Aug. 6, 1981, p. 115.
87. Unsolicited testimony, Henry Hayashino, French Camp, CA.

Assembly Centers

1. Testimony, Teru Watanabe, Los Angeles, Aug. 6, 1981, p. 246.
2. Raymond Okamura and Isami Arifuku Waugh, "The Temporary Detention Camps in California," written for the Ethnic Minority Cultural Resources Survey, State of California, manuscript, p. 7. The earlier evacuation of Terminal Island was conducted under separate authority. (CWRIC 26778-200).
3. War Relocation Authority, *The Evacuated People: A Quantitative Description* (Washington, DC: U.S. Government Printing Office, 1946), p. 8. In addition, the WCCA had control of 1,022 persons remaining in institutions in the evacuated area.
4. Okamura and Waugh, "Temporary Detention Camps," p. 10.
5. Dillon S. Myer, *Uprooted Americans: The Japanese Americans and the War Relocation Authority during World War II* (Tucson, AZ: University of Arizona Press, 1971), p. 30.
6. J. L. DeWitt, *Final Report: Japanese Evacuation from the West Coast, 1942* (Washington, DC: U.S. Government Printing Office, 1943), pp. 89-93. Some evacuees recall that they learned where and when to evacuate and what baggage could be carried from posters in the neighborhood rather than from the control station.
7. Testimony, Betty Matsuo, San Francisco, Aug. 11, 1981, p. 273.
8. Monica Sone, *Nisei Daughter* (Seattle and London: University of Washington Press, 1953), p. 166.
9. DeWitt, *Final Report*, p. 100.
10. *Ibid.*, pp. 125-26.
11. Testimony, Grace Nakamura, Los Angeles, Aug. 6, 1981, p. 252.
12. Testimony, Ben Kasubachi, Seattle, Sept. 11, 1981, p. 163.
13. Written testimony, Shigeo Nishimura, Los Angeles, July 23, 1981.
14. Testimony, Grace Nakamura, Los Angeles, Aug. 6, 1981, p. 252.
15. Unsolicited testimony, Leonard Abrams, Philadelphia.
16. Testimony, William Kochiyama, New York, Nov. 23, 1981, p. 97.
17. Okamura and Waugh, "Temporary Detention Camps," p. 8.
18. American National Red Cross, "Report of the American Red Cross Survey of Assembly Centers in California, Oregon, and Washington," August 1942, unpublished manuscript, pp. 18-19. NARS. RG 200 [hereafter "Red Cross Survey of Assembly Centers"].
19. DeWitt, *Final Report*, pp. 152, 158-59.
20. *Ibid.*, pp. 158-59.

of Military Intelligence since the beginning of World War I, was designated as a "sensitive area" because of the concentrations of war-time industries in which observation can be made and the enemy can readily be observed. The area covering less than 40% of the West Coast includes about 40% of the nation's manufacturing tools. The major portion of war-time production is centered at the seat of the federal government over communications. Supplies and equipment pass-ports of men and supplies are easily discernible.

...focused on the persons to be excluded. Ebel, for instance, during World War I, was president of the American Bund from at least 1939 to January 1941. This Bund was one of the organizations in America in its encouragement of the love of Germany among its American civilians."¹⁰⁵ ...the legal standards established in testing whether, under the Constitution, the right to live and conduct business on the East Coast in the United States bore a reasonable relation to the restriction was found to be unconstitutional.

...reached the same conclusion as to whether the property had been put to its proper use in the United States. The Japanese property of the Nishiyama family seriously be considered in the spring of 1942. The United States were...

4

Economic Loss

Exclusion from the West Coast imposed very substantial economic losses on the Nikkei. The complete picture of those losses is a mosaic of thousands of personal histories of individual families. Owners and operators of farms and businesses either sold their income-producing assets under distress-sale circumstances on very short notice or attempted, with or without government help, to place their property in the custody of people remaining on the Coast. The effectiveness of these measures varied greatly in protecting evacuees' economic interests. Homes had to be sold or left without the personal attention that owners would devote to them. Businesses lost their good will, their reputation, their customers. Professionals had their careers disrupted. Not only did many suffer major losses during evacuation, but their economic circumstances deteriorated further while they were in camp. The years of exclusion were frequently punctuated by financial troubles: trying to look after property without being on the scene when difficulties arose; lacking a source of income to meet tax, mortgage and insurance payments. Goods were lost or stolen. Income and earning capacity were reduced to almost nothing during the long detention in relocation centers, and after the war life had to be started anew on meager resources. War disrupted the economic well-being of thousands of Americans, but the distinct situation of the Nikkei—unable to rely on family or, often, on close friends to tend their affairs—involved demonstrably greater hardship, anxiety and loss than other Americans

suffered. Forty years after the events, a detailed reckoning of Nikkei losses and suffering is difficult, as the postwar effort to calculate these losses and to make partial recompense for them shows.

Sup-Am Evacuation Claims Act
ED USC App. 1951
exclusion and evacuation -

CALCULATING AND COMPENSATING FOR LOSS

In 1948 Congress passed the Japanese-American Evacuation Claims Act¹ which gave persons of Japanese ancestry the right to claim from the government "damage to or loss of real or personal property," not compensated by insurance, which occurred as "a reasonable and natural consequence of the evacuation or exclusion."² The Act was amended over the years but remained the central vehicle by which the federal government attempted to compensate for the economic losses due to exclusion and evacuation. There were many kinds of injury the Evacuation Claims Act made no attempt to compensate: the stigma placed on people who fell under the evacuation and relocation orders; the deprivation of liberty suffered during detention in the assembly and relocation centers; the psychological impact of evacuation and relocation; the loss of earnings or profits; physical injury or death during detention; and losses from resettlement outside the camps. The legislative history reflects that such claims were considered too speculative.³

Twenty-six thousand, five hundred sixty-eight claims totaling \$148 million were filed under the Act; the total amount distributed by the government was approximately \$37 million.⁴ It is difficult to estimate the extent of property losses which were not fully compensated under the Evacuation Claims Act, for the evidence is suggestive rather than comprehensive or complete.

First, by the time the claims were adjudicated, most of the essential financial records from the time of the evacuation were no longer available. When the Evacuation Claims Act was set in motion in 1948, the Department of Justice discovered that the Internal Revenue Service had already destroyed most of the 1939 to 1942 income tax returns of evacuees—the most comprehensive set of federal financial records.⁵ Nor was the situation better among the evacuees themselves. The Japanese American Citizens League emphasized this problem in testifying in favor of amending the Evacuation Claims Act in 1954:

It was the exception and not the rule when minute and detailed records and documents were retained. In the stress and tension

of 1942, when one could only take to camp what could be hand carried, when one did not know how long he would be detained or whether he would ever be allowed to return, it would be unreasonable to expect that emotion-charged men and women would have chosen to pack books and records instead of the food, the medicines, and the clothing which they took with them to war relocation centers.

The whole community was moved, and so books and records could not be left with neighbors or even with friends.

And, today 12 years later, with all the great changes that have taken place particularly on the west coast, it is almost impossible to secure even remotely accurate appraisals and evaluations of the homes, the businesses, the farms and the properties of more than a decade ago, a decade of war and upheaval.

To add further difficulties, under Federal and State codes, most of the Government records of 1942—which might have been of value as cross-references—have been destroyed pursuant to law.⁶

Thus the best evidence of economic losses no longer existed by 1954. The passage of another twenty-eight years, coupled with the deaths of many Issei and witnesses, has only added to the difficulty.

One study of property and income losses due to evacuation was done shortly after World War II, Broom and Riemer's *Removal and Return*. It focused on Los Angeles and the authors estimated that each evacuated adult had a median property loss of \$1,000 and an income loss of \$2,500⁷—which would have resulted in approximately \$77 million in claims payments under the Evacuation Claims Act, rather than the approximately \$37 million actually paid. The Broom and Riemer estimates are conservative. Replacement costs of 1941 were used to estimate personal property losses. Estimates of real property losses were not presented separately and it is not clear how they were calculated. In addition, Broom and Riemer did not distinguish between income losses imputable to property and that part of income imputable to labor and management components.⁸ In 1954 the JACL characterized this study as authoritative to the Congressional subcommittee considering amendments to the Act⁹ and it is certainly the most thorough analytical work that is even roughly contemporaneous with the evacuation.

A second suggestive study by Lon Hatamiya, "The Economic Effects of the Second World War Upon Japanese Americans in California," relies on Broom and Reimer's work but develops other data in analyzing the income of the ethnic Japanese in California. Hatamiya points out that Broom was already dealing with recollections which were five years old and that the study was limited to Los Angeles, but

his analysis supports Broom on income figures and thus suggests the general soundness of Broom's property loss figures. Hatamiya estimates the 1940 median annual income of Japanese (alien and citizen) at \$622.¹⁰ Broom had estimated the mean as \$671-694.¹¹ Hatamiya argues that since median figures are often less than mean figures, there is no major discrepancy between these numbers. Hatamiya does not attempt to estimate property losses directly.

For years, writers and commentators have cited an estimate by the Federal Reserve Bank of San Francisco that evacuee property losses ran to \$400 million.¹² The Commission has inquired of the Federal Reserve, which can find no basis in its records for such an estimate, and the Commission can identify no known source for the number. In short, the \$400-million figure appears to be unsubstantiated.

Consideration of how claims were disposed of under the Evacuation Claims Act allows one to judge further the fairness of its results. The program moved very slowly in its first years, when the Attorney General was required to adjudicate each claim presented to him. In 1949 and 1950, only 232 claims were adjudicated out of more than 26,000 filed.¹³ In 1951 the formal adjudication requirement was removed from the Act for claims settled for the lesser of \$2,500 or 75% of their value.¹⁴ A rush of settlements followed: by the end of 1955 approximately 22,000 claims had been settled.¹⁵ These limitations must have operated as a forceful incentive to reduce claims in order to get a quick resolution and cash payment. In 1956, with a small number of large claims remaining (approximately 2,000 claims for \$55 million), the Act was again changed to allow the Attorney General to settle for up to \$100,000 and to permit contested cases to go to the Court of Claims. Thereafter, almost all claims were compromised and settled—only 15 cases were taken to the Court of Claims.¹⁶

Regardless of the low level of litigation, the settlement procedure was tilted in favor of the government. It was not until 1956 that the Act was amended to provide for appeal past the Attorney General to the Court of Claims.¹⁷ Before 1956, decisions of the Attorney General were final and, in approaching settlement, the Justice Department's attitude, not surprisingly, balanced protecting the interests of the United States with trying to give claimants such liberality as the Act provided.¹⁸ In practice, the Department tried to reach the same result trial might have produced.¹⁹ "Where the problem is created by failure to supply information, the amount should be on the low side."²⁰ Moreover, no matter was too small for careful consideration by Justice Department officers, and the rulings were published in a volume of "Precedent

Decisions" to guide all future similar cases. For instance, a \$7.50 claim for Japanese phonograph records destroyed by the claimant because it was rumored that anyone with Japanese records would be arrested, was not allowed since the loss did not spring from the evacuation but was caused by "the general hysteria among an alien people arising out of the state of war;"²¹ but a \$3.00 claim for the cost of advertising a car for sale at the time of evacuation was thoroughly reviewed and allowed.²² Thus the difficulty of providing persuasive evidence of claimants' losses, the evidentiary standards followed by the Justice Department and a compromise authority which encouraged the reduction of many claims, would tend to result in settlements well below the actual value of losses.²³ Recently released from camps, struggling to survive and to reestablish their lives, the claimants badly needed financial resources to sustain themselves; this too played a part.

One cannot readily appraise how much below truly fair compensation were settlements under the Act, but evacuees' testimony before the Commission drew a picture of economic hardship and suffering that could not be fairly compensated by an amount close to \$37 million.

THE IMPACT OF EVACUATION

Evacuees repeatedly pointed out that they had had little time in which to settle their affairs:

We had about two weeks, I recall, to do something. Either lease the property or sell everything.²⁴

While in Modesto, the final notice for evacuation came with a four day notice.²⁵

We were given eight days to liquidate our possessions.²⁶

I remember how agonizing was my despair to be given only about six days in which to dispose of our property and personal possessions.²⁷

Testimony emphasized that the governmental safeguards were never entirely successful; they began late, and information about the programs was never widely disseminated among evacuees; the evacuees also distrusted even a quasi-governmental body. The protection and management of the property and personalty many evacuees left behind was inadequate. Businessmen were forced to dispose of their inventory

and business at distress prices. It was difficult for evacuees to get reasonable prices in a hostile marketplace. Individuals sold their personal belongings in a buyer's market, realizing only a fraction of their worth.

The makeshift warehouses which evacuees used—homes, garages and other structures—were vandalized; the goods frequently stolen or destroyed. Often those who had agreed to serve as caretakers for the evacuees' property mulcted them in various ways. Some who had found tenants for their property discovered, to their sorrow and financial loss, that the promised rent never appeared or that tenants did not continue the previous land use; many disposed of evacuees' property as their own, or simply abandoned it.

The evacuees' losses mounted as their exclusion from the West Coast lengthened. Some evacuees became aware of the destruction of their property while they were still in relocation centers; others only discovered the full extent of their losses upon their return home. The loss of time, of potential and of property were to many of the evacuees irreparable blows—financial blows from which many never wholly recovered.

AGRICULTURE AND FISHING

The greatest impact of the mass exclusion and evacuation was felt in agriculture, where the Nikkei's economic contribution was concentrated. In 1940, 45% of those gainfully employed among the 112,353 persons of Japanese descent living in the three Pacific Coastal states were engaged in growing crops. Another 18% were employed in wholesaling, retailing, and transporting food products. Census figures show that nearly two-thirds of the work force directly depended upon agriculture and that in the three West Coast states, the value of the 6,118 farms operated by Nikkei was \$72,600,000 with an estimated \$6 million worth of equipment in use.²⁸

These farms represented 2.2% of the number and value of all farms in the three West Coast states, but only .4% of all land in farms, and 1.5% of all crop land harvested. The average farm was roughly 42 acres; 84% were in California.²⁹ These figures give a misleading indication of the importance of Nikkei farming. The average value per acre of all farms in 1940 was \$37.94; that of Nikkei farms was \$279.96. Three out of every four acres of evacuee farm land were under culti-

vation, while only one out of every four acres of total farm land was planted in crops.³⁰ Fruit, truck and specialty crops predominated. Much of their acreage was planted and harvested two or more times a year.³¹ In California the Nikkei dominated the wholesale and retail distribution of fruits and vegetables. In Los Angeles County \$16 million of the annual \$25 million flower market business was in Nikkei hands.³²

When the Japanese arrived in the United States they were at the bottom of the economic ladder. Gradually they saved money and were able to rent or indirectly purchase cheap land. By working hard, living frugally and with family cooperation, they were able to increase their acreage. The impact of evacuation is made more poignant by the fact that it cut short the life and strength of the immigrants, frequently destroying the fruit of years of effort to overcome grindingly adverse Depression conditions. Mary Tsukamoto described the yearly economic cycle many farmers followed, especially those around Florin, California:

This was important, to have time to bring in their crops. The money that they had borrowed from the stores and shipping companies was a tremendous burden. They had to depend on the crop and the harvest to pay for their debts before they could be free again. Each year this was the pattern.

They had struggled hard through the Depression to come out of it, gradually some of them were beginning to pay off their mortgages. Many people still had mortgages to pay.³³

Others also spoke of just beginning to recover from the effects of the Depression at the time they were forced to leave the West Coast. The west's expanding economy had enabled many to purchase new equipment or lease additional land and, in general, to raise their standard of living. Henry Sakai's father had been a successful businessman:

He farmed during the Depression, and then he lost it all. [I]t was too late to start over again. . . .³⁴

Clarence Nishizu told of the gains his father and family had made after the Depression in which:

[the] farmer receive[d] 25¢ for a lug of tomatoes all packed, neatly selected as to size and color. I had to stay on the farm and help on the farm. I had to go through those days we were too poor to have tractors—we had only proud horses and mules. However, toward the end of the thirties, I began to get [a] foothold . . . I had two tractors, several trucks and pickups and was just beginning to make headway by using machinery in farming. I [had] just bought a new K5 Internatkon Truck and a used 1941 Chevrolet Sedan for \$650.00 and loaded it on the new truck in Springfield,

Ohio and arrived home on December 5, 1941. Two days later, Pearl Harbor was bombed and the war started.³⁵

One evacuee had followed in his father's footsteps as a commercial fisherman working the coastal waters off Monterey. He described their struggle to keep their boat:

We built one of the first purse seiners . . . in 1929 just prior to the Great Depression of the 30's. My father retired and I struggled during those years to keep the finance company from repossessing our boat as not only our family but twelve crew members and their families depended on the continuing operation of the boat. Because of the changes in the industry, I sold the boat in 1935 and began to charter various vessels. The purse-seine net was my investment in the business and at that time valued around \$8,000. Today the same net would cost in the neighborhood of \$50,000. . . . Every cent I owned was invested in my fishing equipment, and I had to store it in the family garage knowing it would deteriorate and be worthless within a few years.³⁶

For many evacuees the most immediate, painful loss was their profit from what promised to be a bumper crop in 1942. The parents of Jack Fujimoto lost the proceeds from an abundant crop of cucumbers and berries which they were unable to harvest before evacuation in May. Instead, the caretaker benefitted from the hard work of this couple who had tilled the soil without much success until then. The Fujimotos never heard from the caretaker.³⁷

Hiroshi Kamei recounted:

My family's greatest economic loss was loss of standing crops. We had several acres of celery just about ready for harvest. . . . Several weeks after our evacuation, the price of celery jumped up to about \$5 or \$6 a crate.³⁸

Another described how he had worked on his farm until he was evacuated, but his crop had been harvested by strangers and he himself received no return for his labor and time.³⁹

The white growers and shippers who expanded in the wake of the evacuation did very well in 1942. The managing secretary of the Western Growers Protective Association summed up matters at the end of the year:

A very great dislocation of our industry occurred when the Japanese were evacuated from Military Zones one and two in the Pacific Coast Areas, and although as shipping groups these dislocations were not so severe the feeding of the cities in close proximity to large Japanese truck farm holdings was considerable and shortages in many commodities developed and prices skyrocketed to almost unheard of values. This, coupled with increased

buying power in practically every district of the United States, also brought to the growers and shippers most satisfactory prices on almost every commodity shipped from California and Arizona.

. . .⁴⁰

For many families who owned nurseries, evacuation occurred near one of the richest days in the flower business—Mother's Day, which accounts for one-fifth of the annual sale of flowers. With the Mother's Day crop about to be harvested, evacuation upon short notice caused obvious financial hardship:

The hardest thing to lose was the full 1942 Mother's Day crop of flowers which [had been] in process from Christmas time.⁴¹

When No. 9066 evacuation came, most of the nurseries, with Mother's Day crop before them, were left with very precarious arrangements, or abandoned.⁴²

Many evacuees who had been in the flower and nursery business told similar stories. Heizo Oshima described the voluntary evacuation of one community of Japanese families in floriculture around Richmond, El Cerrito and San Pablo:

The evacuation of the Japanese in the Richmond and El Cerrito area came earlier than the Executive Order 9066. The Issei in this area were ordered to leave in February of '42 because they were posed as a threat to the Standard Oil plant in Richmond. . . . Nisei children remained behind to tend the nurseries. . . . The Japanese in this community were very frightened and confused by the order to evacuate the Issei.⁴³

The Nisei children left in charge of the nurseries were untrained and unaccustomed to handling financial details of the family business. They were at a distinct disadvantage when they had to sell in a market of rock bottom prices. Mary Ishizuka told of the heavy loss suffered by her father, who in 1942 had one of the largest nurseries in southern California:

He had 20 acres of choice land on Wilshire and Sepulveda. He had very choice customers [such] as Will Rogers and Shirley Temple's parents . . . because he had specimen trees. . . . But wealth and standing did not save my father from being arrested . . . on the night of December 7, 1941. When . . . 9066 mandated that all Japanese were to evacuate, we were faced with the awesome task of what to do. And my mother on her own without father, father taken to Missoula, was not able to consult him. We didn't know what to do. You cannot get rid of large nurseries—nursery stock—at this short notice. So what did she do but she gave all of the nursery stock to the U. S. Government, the Veterans Hospital which was adjoining the nursery. It was written up in the

local newspaper along with the story of our evacuation. Itemized piece by piece the dollar amount . . . totalled \$100,000 in 1942.⁴⁴

The loss of hard-earned farm machinery was also very bitter; a Los Angeles witness told his family's story:

The loss, not only in property, but also potential harvest was considerable and all-important to our family. What I remember most was my father who had just purchased a Fordson Tractor for about \$750 a few months prior to the notice.

Imagine his delight, after a lifetime of farming with nothing but a horse, plow, shovel and his bare hands, to finally be able to use such a device. He finally had begun to achieve some success. A dream was really coming true.

He had much to look forward to. Then came the notice, and his prize tractor was sold for a measly \$75.⁴⁵

The exclusion and evacuation seriously disrupted the agricultural economy of California and led the government to exhort those suspected of disloyalty to produce food for war needs until the final moment when they were thrown off their land. The Secretary of Agriculture had established farm production goals for 1942, and the Japanese farmers of California had been expected to produce over 40% of all truck crops.⁴⁶ It was sufficiently critical to the government that the evacuees produce as much as possible, that continued crop production became a measure of loyalty.⁴⁷ Tom C. Clark, Chief of the Civilian Staff, Western Defense Command, declared on March 10, 1942:

There can be no doubt that all persons who wish to show their loyalty to this country should continue farming operation to the fullest extent.⁴⁸

Three days later Clark was no longer equating crop production with evacuee loyalty. Crop neglect or damage had been elevated to an act of sabotage:

[I]t would be most helpful if you would advise the Japanese [in Hood River County] that they are merely damaging themselves when they fail to take care of their orchards. In addition to this, any failure to do so might be considered as sabotage and subject them to severe penalties.⁴⁹

Witnesses recalled the government's insistence that they continue to farm (with evacuation imminent) or be charged with sabotage:

With the beginning of the war, we not only had to terminate our basket business, but we lost all financial investments in the asparagus farm as well. However, we were forced to continue farming with no financial gain because the government stated that any neglect on our part would be considered an act of sabotage.⁵⁰

A gentleman . . . wanted to harvest a small strawberry crop.

He wanted 24 hours. He came to me [a U.S. Employment Service Employee assigned to the Federal Reserve Bank] and asked if I could get some kind of time deferral. I could not. So another frustration, he plowed his crop under. The following day I found out that the FBI had picked him up and he had been jailed because he had committed an act of sabotage.⁵¹

Shigeo Wakamatsu told how the Issei truck farmers of the Puyallup Valley in Washington responded to the regulation to continue crop production:

By the middle of May, when the valley folks were sent to the assembly center, the telephone peas were waist high and strung, the pole beans were staked, early radishes and green onions were ready for the market, strawberries were starting to ripen and the lettuce had been transplanted.

Not much is known how the crops fared in the harvest nor what prices were obtained, but the Issei farmers went into camp with their heads held high, knowing that they had done everything that was possible to help our nation face its first summer of World War II.⁵²

SMALL BUSINESSES

Next to agriculture, major occupations of evacuees were in small shops and businesses. Shops, hotels, restaurants and other service-oriented businesses were common. Witnesses told how they were forced by circumstances to accept low prices or abandon property or, with a mixture of desperation and hope, to place the property in insecure storage.

Seattle evacuees had two hundred hotels which were typically run as family enterprises.⁵³ Shokichi Tokita's father had purchased a hotel in a prime downtown Seattle location after his health had been threatened by his original profession as a sign painter. As a painter the elder Tokita had been acclaimed by the Seattle Art Museum as one of the ten best artists in the Pacific Northwest. He made an equal success of his hotel:

They did very well . . . saving over \$16,000 over a five or six year period before the war. This was all lost in the evacuation.⁵⁴

One evacuee with extensive property holdings was forced to sell his forty-five room hotel for \$2,500 to a buyer who was able to make only a \$500 down payment; the balance was sent to the evacuee in camp

two months later. The hotel owner's loss was accentuated by the fact that he was denied the profits which would have accrued to him in a defense boom town such as Seattle became during World War II.⁵⁵

A former interviewer with the U.S. Employment Service who had been assigned to the Federal Reserve Bank cited a number of loss cases; one woman had owned a twenty-six room hotel:

She came to me and said she was offered \$500 and no more and that she had three days in which to dispose of the property.

Three days later, she came to me in tears, frustrated and frightened. She told me that she had to sell it for the \$500.⁵⁶

Other instances of women who had built up businesses and lost the fruit of years of labor were described. Widowed at age 32 with four young children to raise, one had used the proceeds of her deceased husband's insurance policy to buy a hotel in Stockton, California. Her son testified:

The hotel was a successful venture for [her] and then the war . . . [and] my mother was forced to sell the hotel for a piddling [amount] the day before we left.⁵⁷

She had purchased the hotel for \$8,000; it had been a home for her and her children. Now it was gone.

One Issei woman described taking over her husband's insurance business after he was confined to a tuberculosis sanitarium. She built up the business to the point where she had an average monthly income of \$300 to \$400 to support herself and her children. She found herself, her family and her northern California clients torn from their homes. Many of her clients had no way to continue paying their policy premiums, nor could she effectively service their policies.⁵⁸

The owner of an Oakland Oriental art and dry goods store was unable to dispose of his merchandise in the few weeks given him prior to his evacuation. No one wanted to purchase "Japanese products." He had to store an inventory worth more than \$50,000 in a Japanese Methodist Church which had been converted into a warehouse.⁵⁹

The Yoshida family, owners and operators of the Western Goldfish Hatchery and Western Aquarium Manufacturing Company, gave away their goldfish because they required constant care and feeding. Unable to find someone to purchase the goldfish within the three weeks before their evacuation, the Yoshidas had no other recourse. The hatchery comprised six large fish hatching ponds on an acre of land; they stored the aquarium inventory and personal property in the business sales office.⁶⁰

Anti-Japanese sentiment caused financial problems for the owners

of many stores and restaurants. For example, at the Sukiyaki Restaurant in Salem, Oregon, FBI visits heightened anti-Japanese feeling. Vandals struck the restaurant and customers ceased to patronize it, afraid of being viewed as unpatriotic.⁶¹ In short, the small businessman fared no better than the farmer.

WHITE COLLAR WORKERS

The smaller numbers of salaried workers and professionals also testified eloquently to the economic impact of evacuation; their losses were less tangible, but no less real than those of farmers and entrepreneurs. Doctors, dentists and architects lost their homes, their practices, their equipment and a lucrative period of their careers.⁶²

Many businessmen and professionals couldn't collect outstanding accounts and lost their accumulated charge account receipts.⁶³ Mrs. Mutsu Homma gave an example of the financial predicament of many evacuee professionals:

[Dr. Homma] after 10 years of dental practice in West Los Angeles and several months of working on people preparing to leave for relocation camps, had more than \$20,000 uncollected bills.⁶⁴

The salaried worker in some instances found that the curfew restricted his movements and prevented him from doing his job, or else he lost his chance for economic advancement.⁶⁵

AUTOMOBILES

Cars and trucks were in demand during the evacuation period by both the Army and the civilian population of the West Coast. In this post-Depression period of a growing economy the automobile was a proud symbol of economic advancement. The auto's importance to the way of life and economic well-being of evacuees can be seen in the frequency and detail of car sales described by witnesses:

We had a 1939 car which I recall we sold for \$100 and a brand new Ford pickup truck for \$100.⁶⁶

In 1941 we purchased a new Chevrolet which the Army took and reimbursed us in the amount of \$300.⁶⁷

One man wanted to buy our pickup truck. My father had just spent about \$125 for a set of new tires and tubes and a brand new battery. So, he asked for \$125. The man "bought" our pickup for \$25.⁶⁸

Evacuees were permitted to dispose of their vehicles by private sale. The other option was to place the cars in government storage, but the deterioration likely to result from long-term storage encouraged evacuees to sell. General DeWitt's *Final Report* states that the majority of cars in storage were "voluntarily" sold to the Army.⁶⁹

Cars driven to the assembly centers were automatically placed in the custody of the Federal Reserve Bank. The vehicles were then valued by two disinterested appraisers and the possibility of resale to the Army or the civilian sector was considered. Those which qualified for Army purchase were quickly bought up by the government. The new 1942 models were sold only to auto dealers, so they would have stock; factories were being converted to wartime production.

Originally 1,905 vehicles were placed in the custody of the Federal Reserve Bank; 1,469 were voluntarily sold to the Army and 319 were released according to evacuee instructions. The remaining 117 remained in storage under Bank control.

In late fall 1942, the joint military authorities decided to requisition these vehicles "in consideration of national interest during wartime, and in the interests of the evacuees themselves."⁷⁰ Justifying this move, General DeWitt explained that only those vehicles in open storage whose owners had refused to sell were requisitioned.⁷¹

PROPERTY DISPOSAL

It came to the attention of the Tolan Committee early in its West Coast hearings that frightened, bewildered Japanese were being preyed upon by second-hand dealers and real estate profiteers. On February 28, the Committee cabled Attorney General Biddle recommending that an Alien Property Custodian be appointed.⁷²

Before any such action was taken, however, evacuation was under way. Spot prohibited zones had been cleared of Japanese by order of the Department of Justice; the Navy had evacuated Terminal Island; and the Western Defense Command had urged a number of West Coast residents of Japanese ancestry to leave the military area voluntarily. Whatever their good intentions, the military's primary con-

cern was to remove evacuees from the designated areas, not to look after their property.

In early March, the Federal Reserve Bank of San Francisco was given responsibility for handling the urban property problems of the evacuees; an Alien Property Custodian was appointed on March 11; and on March 15 the Farm Security Administration assumed responsibility for assisting with farm problems. Each agency retained its obligation until the WRA assumed total responsibility in August 1942.⁷³ By this time, many abuses had already been committed. The Tolan Committee gave a succinct example of what it discovered was going on:

A typical practice was the following: Japanese would be visited by individuals representing themselves as F.B.I. agents and advised that an order of immediate evacuation was forthcoming. A few hours later, a different set of individuals would call on the Japanese so forewarned and offer to buy up their household and other equipment. Under these conditions the Japanese would accept offers at a fraction of the worth of their possessions. Refrigerators were thus reported to have been sold for as low as \$5.⁷⁴

Property and business losses also arose from confusion among government agencies. The military's delay in providing reasonable and adequate property protection and its failure to provide warehouses or other secure structures contributed to initial evacuee losses. Confusion existed among the Federal Reserve Bank of San Francisco, the Farm Security Administration and the Office of the Alien Property Custodian. Not only did each agency have different policies; there was also confusion within each about how to implement its program. Dillon S. Myer decried the result:

The loss of hundreds of property leases and the disappearance of a number of equities in land and buildings which had been built up over the major portion of a lifetime were among the most regrettable and least justifiable of all the many costs of the wartime evacuation.⁷⁵

In general people were encouraged to take care of their own goods and their own affairs.⁷⁶ Given the immense difficulties of protecting the diverse economic interests of 100,000 people, it is not surprising that despite the government's offer of aid it relied primarily on the evacuees to care for their own interests. Conversely, it is not surprising that, facing the distrust expressed in the government's exclusion policy, most evacuees wanted to do what they could for themselves. Approximately 11% of their farms were transferred to non-Japanese (there

Alien Property Custodian

was a transfer of 3% to ethnic Japanese, probably the result of settlement of business affairs in anticipation of exclusion).⁷⁷

Evacuees were vulnerable to opportunists. Drove of people came to purchase goods and to take advantage of the availability of household furnishings, farm equipment, autos and merchandise at bargain prices.

Our house was in from Garden Grove Boulevard about 200 yards on a dirt driveway and on the day before the posted evacuation date, there was a line up of cars in our driveway extending about another 200 yards in both directions along Garden Grove Boulevard, waiting their turn to come to our house. . . .⁷⁸

Swarms of people came daily to our home to see what they could buy. A grand piano for \$50, pieces of furniture, \$50. . . . One man offered \$500 for the house.⁷⁹

It is difficult to describe the feeling of despair and humiliation experienced by all of us as we watched the Caucasians coming to look over our possessions and offering such nominal amounts knowing we had no recourse but to accept whatever they were offering because we did not know what the future held for us.⁸⁰

People who were like vultures swooped down on us going through our belongings offering us a fraction of their value. When we complained to them of the low price they would respond by saying, "you can't take it with you so take it or leave it". . . . I was trying to sell a recently purchased \$150 mangle. One of these people came by and offered me \$10.00. When I complained he said he would do me a favor and give me \$15.00.⁸¹

The evacuees were angered by the response of their former friends and neighbors; some attempted to strike back however they could. Joe Yamamoto vented his feelings by

putting an ad in our local paper stating that I wanted to dispose of a car, a 1941, which had three brand new tires with it. These were premium items in those days. I gave an address that was fictitious. They could go chase around the block for a few times.⁸²

Another evacuee related how he tried to destroy his house when he abandoned his property and his business after evacuation notices were posted on February 19, 1942:

I went for my last look at our hard work. . . . Why did this thing happen to me now? I went to the storage shed to get the gasoline tank and pour the gasoline on my house, but my wife. . . . said don't do it, maybe somebody can use this house; we are civilized people, not savages.⁸³

ORAL CONTRACTS AND CARETAKERS

The evacuees were unprotected and vulnerable. The prevalent use of oral contracts created difficulties for many. The practice of regarding a person's word as binding, a carryover from Meiji Japan reinforced by dealing primarily within their own ethnic group, made it difficult for many evacuees to document when, where, how and to what extent financial loss occurred. Their verbal agreements with caretakers frequently brought theft, fraud or misappropriation.

Kimiyo Okamoto followed the prevalent practice of evacuees in all walks of life and entrusted his property to a friend:

Prior to the evacuation we had a successful hotel business in Sacramento. Because of the time that was allotted to us, we were not able to sell our hotel. . . . One of the trusted guests offered to manage our hotel. He was inexperienced, but we had no other choice.⁸⁴

Another Seattle witness asked Caucasian friends to take over the property and financial management of their apartment house. Unfortunately, they returned from camp to discover the property faced foreclosure due to three years' tax arrearage.⁸⁵

The daughter of concessionaires at Venice and Ocean Park Piers and small carnivals throughout California spoke of the problems created by FBI detention of her father. In desperation, her mother gave the carnival equipment—truck, trailer, games—to one employee and turned over the beach concessions to another who had agreed to act as caretaker until the evacuees returned. When the family did return, neither the business nor the employee could be found.⁸⁶

When the part-owner of a movie business was picked up by the FBI, his business was hurriedly entrusted to the man who had handled his business insurance. The eager caretaker visited the owners while they were in camp to secure power-of-attorney from them so he could handle corporate affairs. Having gained power-of-attorney, the caretaker moved to gain corporate ownership on the basis that all Japanese members of the corporation were "enemy aliens."⁸⁷

In sum, economic losses from the evacuation were substantial, and they touched every group of Nikkei. The loss of liberty and the stigma of the accusation of disloyalty may leave more lasting scars, but the loss of worldly goods and livelihood imposed immediate hardships that anyone can comprehend. Moreover, it was the loss of so much one had worked for, the accumulated substance of a lifetime—gone just when the future seemed most bleak and threatening.

posed largely of draft-age men of Japanese ancestry enrolled in Honolulu high schools and ROTC at the University of Hawaii.²⁰ Opposition to Japanese Americans guarding public utilities and vital waterfronts, however, caused the dismissal in mid-January 1942 of the 317 Nisei members of the Guard, without explanation, on orders from Washington.²¹ The excluded Nisei university students of the Hawaii Territorial Guard petitioned General Emmons to be allowed a productive role in the war effort, and in February they were assigned to a regiment of engineers as a 160-man auxiliary unit called the Varsity Victory Volunteers.²²

Suspicion and trust in the Nisei competed for the dominant position in government policy during the next year, while Hawaii's day-to-day affairs were conducted under a regime of military authority unknown on the mainland.

MILITARY RULE

After the declaration of martial law, Hawaii's civilians were ruled by military order and proclamation. By the end of the war, the territorial governor had declared 151 "defense act rules," the territorial director of civilian defense had issued over 100 "directives," and numerous other regulations had come from miscellaneous government executives. In addition, 181 "old series" general orders were issued by the military governor (the Commanding General of the Hawaiian Department) before March 10, 1943; 70 "new series" orders between March 1943 and October 1944; 12 "security orders" and 12 "special orders" from the Office of Internal Security after October 1944. Many orders were worded to cover the territory, but in practice, they applied only to Oahu unless reissued by authorities on each island.²³

Some orders were specifically directed at enemy aliens. No Japanese alien could travel by air, change residence or occupation, or "otherwise travel or move from place to place" without the approval of the Provost Marshal General. Nor could Japanese buy or sell liquor, be at large during the blackout, assemble in groups exceeding ten persons, or be employed in restricted areas without permission. On December 8, aliens were required to turn in firearms, explosives, cameras, shortwave receivers and numerous other items.²⁴ Two months later, all American citizens of Japanese, German and Italian ancestry

- citizens impoundment
 were ordered to turn in firearms, explosives, ammunition and weapons.²⁵ (Allen)

Beginning December 7, the Army imposed a curfew applicable to all residents, shut down bars and banned liquor sales, closed schools, rationed gasoline, barred food sales in order to make a complete island inventory, and supplanted the civil courts with provost courts.²⁶ The summoning of grand juries and trial by jury were prohibited, and criminal law was administered entirely by the military.

Within two hours after the Pearl Harbor attack, censorship was instituted to prevent information of military value from leaving the islands. Mail was examined and censored, and censors listened to all inter-island and trans-Pacific telephone calls. Only conversations conducted in English were allowed. Film developing was limited to those with permits, and photographs in violation of regulations were withheld from the owners until the end of the war. All radio scripts were censored in advance, although after March 10, 1943, voluntary censorship replaced Army censorship of newspapers. Publication of Japanese vernacular newspapers was temporarily suspended and foreign language broadcasts halted. Censorship in Hawaii finally ended on August 15, 1945.²⁷

The registration and fingerprinting of all civilians on Oahu over the age of six was ordered on December 27, 1941, and in March 1942 the order was extended to include the other islands as well. Residents of Hawaii were required to carry identification cards at all times. Citizens found without cards were fined \$5 or \$10 in police courts; aliens were fined \$25 to \$50 in provost courts.²⁸

Hoarding immediately after Pearl Harbor threatened the currency supply. To prevent large amounts of cash from becoming available to foreign agents or invaders, after January 1942 no person was permitted to hold more than \$200 in cash and no business more than \$500 except to meet payrolls. New currency, good only in Hawaii, was issued, replacing regular currency from July 1942 to October 1944.²⁹

Under martial law, Hawaii's civil courts were replaced by a military commission which tried offenses punishable by more than a \$5,000 fine and five years' imprisonment, and by several provost courts, each with a single judge, which heard lesser cases.³⁰ On December 16, 1941, the civil courts were permitted to function in certain uncontested civil matters, and on January 27, 1942, they were further allowed to entertain certain civil cases acting as agents of the military governor. Jury trials, summoning grand juries, and issuing writs of habeas corpus, however, continued to be prohibited.³¹

rules generally

citizens impoundment

On July 23, 1942, United States District Judge Ingram M. Stainback, a vocal critic of martial law, was appointed territorial governor, replacing Joseph B. Poindexter, whom Interior Secretary Ickes felt had not been aggressive enough in resisting the Army's encroachment on civilian authority.³² On August 31, civil court jurisdiction was extended to jury trials, and four days later the Army issued an order listing the criminal offenses against the government or related to the war effort over which the civil courts had no authority.³³ By mid-fall, the Departments of War, Justice and Interior "had agreed upon a restoration of an appreciable number of civil rights to the civil administration, but . . . [Judge Advocate] General Green had 'interpreted' all of these vital matters out by an order that he had issued subsequently."³⁴ On December 10, Secretary Ickes announced that civilian rule would be restored to Hawaii as soon as possible, and nineteen days later the President approved a plan for restoration.

Civilian government was substantially returned to Hawaii on March 10, 1943. Martial law and the suspension of habeas corpus were still in effect, however, and the military kept control of labor and certain other matters. The civil courts were given jurisdiction over all violations of criminal and civil laws except cases involving military personnel; civil suits against them for acts or omissions in the line of duty, and criminal prosecutions for civilian violations of military orders.

Presidential Proclamation No. 2627 formally ended martial law in Hawaii on October 24, 1944. The territory was designated a "military area," and a series of security orders and special orders replaced general orders issued by the military, with all civilian violations of these orders heard in the U.S. District Court. Few or no changes were made in orders controlling the activities of enemy aliens, entry to restricted areas, censorship, labor control or the curfew.³⁵

THE QUESTION OF EVACUATION

The issue of evacuating Issei and Nisei from Hawaii is only partially understood from a literal reading of memoranda between the War Department in Washington and General Emmons in Hawaii. First, the West Coast evacuation was locally popular; in Hawaii the impetus for evacuation or control of the ethnic Japanese came from Washington. The uproar in California echoed from Washington to Honolulu. Second, one can only conclude from his writing that General Emmons saw little

or no military necessity for action against Issei and Nisei not rounded up in the first days after Pearl Harbor. General Emmons did not directly oppose the evacuation of Issei and Nisei from Hawaii, however. Perhaps he preferred wearing down the War Department by attrition rather than by a sharply focused resolution of opposing views; perhaps his views of the danger of sabotage or fifth column activity adjusted quickly to the changing fortunes of the Americans in the Pacific war. Emmons emphasized the practical problems of any evacuation and proposed using the program for the not-strictly-military goal of increasing war productivity in Hawaii by removing unproductive people from the territory.

Just as General DeWitt largely succeeded in preventing the War Department from humanizing and relaxing the exclusion program in the Western Defense Command when the policy was reviewed in the winter of 1942-43, so Emmons effectively scuttled the Hawaiian evacuation program that Washington sought to pursue in 1942.

The question of evacuation from Hawaii was raised by Secretary Knox's request to evacuate Oahu and the War Department's inquiry to General Emmons on January 10, 1942, asking his views on the subject. Emmons responded that such a move would be highly dangerous and impracticable. Large quantities of building materials would be needed at a time when construction and shipping were already taxed to the limit; many additional troops to guard the islands would be required, when the Hawaii garrison had less than half the troops it needed for missions already assigned. Moreover, Emmons felt, a mass evacuation of the ethnic Japanese, citizens and aliens, who provided most of the island's skilled labor (including a great many Army employees), would severely disrupt Oahu. Over ninety percent of the carpenters, nearly all the transportation workers, and a high percentage of agricultural workers were of Japanese ancestry. They were "absolutely essential" to rebuild defenses destroyed by the Pearl Harbor attack unless they were replaced by equivalent labor from the mainland. If the War Department decided to evacuate any or all Japanese, urged Emmons, such a move should be to the continental United States.³⁶

In early February, General Emmons's view was again solicited. He agreed with the desirability of evacuating to the mainland as many Japanese Americans and aliens as possible, at the earliest date practical; but he did not want to evacuate more than a few hundred until some 10,000 white civilian women and children had been removed. Although all ethnic Japanese against whom there were specific grounds for sus-

picion were already in custody, the commander of the Hawaiian Department informed the War Department that it would probably be necessary to evacuate 100,000 Japanese from Hawaii to ensure removing all the potentially disloyal.³⁷ This was hardly a practical program when transportation and shipping were in very short supply.

On February 9, the War Department ordered General Emmons to suspend all ethnic Japanese civilians employed by the Army. Emmons now returned to the argument that the Japanese were an irreplaceable labor force in Hawaii and that "the Japanese question" was both "delicate and dangerous" and "should be handled by those in direct contact with the situation."³⁸ In other words, he did not want to follow the Department's anti-Japanese program. The War Department rescinded its order.

In mid-February 1942, the War Plans Division recommended that General Emmons "be authorized to evacuate all enemy aliens and all citizens of Japanese extraction selected by him with their families, subject to the availability of shipping and facilities for their internment or surveillance on the mainland"; it was discussing numbers in the 100,000 range.³⁹ Washington was moving toward a program of complete control of the Issei and Nisei population of Hawaii since, at the same time, the Army suggested that the Joint Chiefs discuss establishing a "concentration camp" on Molokai or preferably on the mainland because it was "essential that the most dangerous group, approximately 20,000 persons . . . be evacuated as soon as possible," and that "eventually all Japanese residents will be concentrated in one locality and kept under continuous surveillance."⁴⁰ On March 13, after Secretary Stimson and the Joint Chiefs of Staff agreed that an ethnic Japanese evacuation to Molokai, although desirable, was impractical, the President reluctantly approved a mass evacuation of ethnic Japanese to the mainland "on the basis . . . that evacuation would necessarily be a slow process and that what was intended, first, was to get rid of about 20,000 potentially dangerous Japanese."⁴¹

Despite consensus in Washington, it soon became apparent to officials that the military authorities in Hawaii did not agree. On his visit to the Territory, Assistant Secretary McCloy learned that the Army and Navy in Hawaii were opposed to any large-scale evacuation to the mainland or to Molokai and, at the March 23 War Council meeting, he reported that they preferred to "treat the Japanese in Hawaii as citizens of an occupied foreign country"—a reference that seems to imply little more than the martial law already imposed.⁴² And in a marked departure from the War Department's 20,000-person figure,

on March 27 General Emmons made a "present estimate" of 1,500 men and 50 women as the number of dangerous Japanese aliens and citizens, while conceding that "circumstances may arise at any time making it advisable to raise this estimate to much larger figures."⁴³

McCloy concurred with the Commanding General that, although desirable, evacuating many Japanese from the Hawaiian Islands was simply impractical due to shipping and labor problems Emmons had cited; providing suitable facilities for relocated Japanese would also be difficult, and there would be "political repercussions on the West Coast and in the United States generally to the introduction of 150,000 more Japanese." The General, moreover, opposed a substantial movement of Japanese before receiving his requested complement of troops and munitions.⁴⁴

To McCloy's legal mind, removal of the Issei and Nisei from Hawaii presented troublesome problems. Unlike exclusion from the West Coast, it was difficult to characterize such a program as simply barring people from sensitive military areas. Here American citizens would have to be transported several thousand miles from their homes, across the Pacific, and through evacuated areas of the Western Defense Command into the interior. Moreover, in this case the ultimate destination of detention camps was faced as the reality. At this point McCloy did not oppose the Hawaiian evacuation, but he was uneasy about it, stating in a memorandum to Eisenhower that "[t]here are also some grave legal difficulties in placing American citizens, even of Japanese ancestry, in concentration camps."⁴⁵ Stimson was somewhat more blunt in his diary:

As the thing stands at present, a number of them have been arrested in Hawaii without very much evidence of disloyalty, have been shipped to the United States, and are interned there. McCloy and I are both agreed that this was contrary to law; that while we have a perfect right to move them away from defenses for the purpose of protecting our war effort, that does not carry with it the right to imprison them without convincing evidence.⁴⁶

Stimson briefed the President on the "really difficult constitutional question" of "the President's own attempt to imprison by internment some of the leaders of the Japanese in Hawaii against whom we however have nothing but very grave suspicions." Moreover, the Hawaiian Japanese interned on the mainland had applied for writs of habeas corpus. There were, however, very practical limits to the concern at the top of the War Department for this problem. Stimson and McCloy gave an unassailable lawyer's answer to the "Japanese problem" on

Hawaii; Stimson informed President Roosevelt that they were sending the American citizens "back to Hawaii which is under a state of martial law and where we can do what we please with them."⁴⁷

On April 20, Secretary Knox renewed his plea for "taking all of the Japs out of Oahu and putting them in a concentration camp on some other island" because he was "gravely concerned about security in Oahu."⁴⁸ The President supported Knox's solution at the April 24 Cabinet meeting,⁴⁹ and four days later Stimson, Knox, McCloy, Admirals Wilson, Wilkinson, Bloch and several others met to discuss evacuating the Japanese from Hawaii. "Everybody was agreed on the danger" but not on the solution and, Secretary Stimson surmised, "We shall probably send a bunch of perhaps eight or ten or twelve thousand of them to the United States and even without internment try to keep them away from the islands."⁵⁰ Later in the summer, General Marshall and Admiral King told the President they supported such a plan limited to 15,000 people, thus bringing top professional military opposition to Knox's call for evacuation.⁵¹

Meanwhile, the War Department had received support for its views in a report from the Department of Justice warning of conditions in Hawaii, but a counter-report from Emmons to McCloy discounted this document as "so fantastic it hardly needs refuting." General Emmons was particularly troubled by the statements of Angus Taylor, Acting United States Attorney in Hawaii:

The feeling that an invasion is imminent is not the belief of most of the responsible people. . . .

There have been no known acts of sabotage committed in Hawaii.

I talked with Mr. Taylor at great length several weeks ago at which time he promised to furnish evidence of subversive or disloyal acts on the part of Japanese residents to me personally or to my G-2. Since that time he has, on several occasions, furnished information about individuals and groups which turned out to be based on rumors or imagination. He has furnished absolutely no information of value.

Mr. Taylor is a conscientious, but highly emotional, violently anti-Japanese lawyer who distrusts the FBI, Naval Intelligence and the Army Intelligence. . . . I do not believe that he is sufficiently informed on the Japanese question to express an official opinion. . . .

As you well know, the Japanese element of the population in Hawaii constitutes one of our most serious problems but, in my judgment, there is no reason for you to change the opinions formed on your recent visit.⁵²

The view Emmons and McCloy shared reverses the positions taken by the War and Justice Departments on the mainland and underscores that personal judgment was as important as institutional predisposition in the decisions of 1942.

In May, McCloy advised Emmons to make an alternative evacuation plan, and on June 20 the Hawaii commander proposed a voluntary evacuation to the mainland of not only internees' families, but also persons who were more a drain than a benefit to Hawaii's economy and war effort. By July 1, again assessing the local situation, the Hawaiian Department had determined that most of the Japanese population was "highly satisfactory" and therefore urged evacuating only 5,000 persons.⁵³ On July 17, 1942, the President authorized resettlement on the mainland of up to 15,000 persons, in family groups, who were "considered as potentially dangerous to national security."⁵⁴

In October, while Knox was still writing the President that sterner, more thorough measures were urgently needed for the ethnic Japanese population in Hawaii,⁵⁵ Emmons came forward with another evacuation plan. It was essentially the same plan he had offered in June; now, though, evacuation would be compulsory not voluntary, with priority to those who sapped Hawaii's resources, not to those considered "dangerous." Emmons proposed to send out 300 Japanese every two weeks if berths were available, and more if space permitted.⁵⁶

On October 12, Stimson designated General Emmons as a military commander under Executive Order 9066, giving him the authority to exclude individuals from military areas within his command—not an essential authority, since the writ of habeas corpus was suspended in Hawaii, but for "good public relations" and to add "another barrel" to Emmons's gun.⁵⁷

By this time the War Department's conviction that evacuation was militarily necessary was ebbing, but Secretary Knox and President Roosevelt remained uneasy. They still believed that "a very large number of Japanese sympathizers, if not actual Japanese agents, [are] still at large in the population of Oahu, who, in the event of an attack upon these islands, would unquestionably cooperate with our enemies."⁵⁸ Secretary Stimson tried to reassure the President:

[A]ll persons of Japanese ancestry resident in the Hawaiian Islands who are known to be hostile to the United States have been placed under restraint in internment camps either in the islands or on the mainland. In addition, many others suspected of subversive tendencies have been so interned.

. . . It is intended to move approximately five thousand during

the next six months as shipping facilities become available. This, General Emmons believes, will greatly simplify his problem, and considering the labor needs in the islands, is about all that he has indicated any desire to move although he has been given authority to move up to fifteen thousand.⁵⁹

Stimson's letter, General Emmons wrote him, accurately portrayed the Hawaiian situation, but Emmons wanted to clarify the definition of future evacuees:

This group will comprise those residents who might be potentially dangerous in the event of a crisis, yet they have committed no suspicious acts. It is impossible to determine whether or not they are loyal.

In general the evacuation will remove persons who are least desirable in the territory and who are contributing nothing to the war effort.⁶⁰

In other words, the field commander now saw less military justification for any evacuation.

The President responded strongly to Stimson's letter:

I think that General Emmons should be told that the only consideration is that of the safety of the Islands and that the labor situation is not only a secondary matter but should not be given any consideration whatsoever. . . .

Military and naval safety is absolutely paramount.⁶¹

Despite the President's opinion, Emmons's plan selectively to evacuate Japanese residents of Hawaii remained unchanged, for the Hawaiian Department did not consider the situation dangerous. The move to the mainland was "primarily for the purpose of removing non-productive and undesirable Japanese and their families from the Islands" and "largely a token evacuation to satisfy certain interests which have strongly advocated movement of Japanese from the Hawaiian Islands."⁶²

THE EVACUATION

Negotiation over the terms of evacuation went on and on, plainly inconsistent with any pressing military necessity. A year after Pearl Harbor, only 59 families had been evacuated from Hawaii. By design or accident, General Emmons had succeeded in reducing Washington's evacuation program to negligible numbers.

Following the early internees, the first two units of evacuees were

transferred to the mainland in July and December 1942; 42 percent were under the age of 19. Of the 59 families evacuated, 26 were headed by aliens, 20 of whom were already interned on the mainland, with 17 requesting repatriation. The remaining 33 families were headed by Americans interned on Sand Island, none of whom asked expatriation. The first installment was hardly a roll call of dangerous persons; nevertheless, evacuation planning continued. By December 1, 1942, projections for the total number of additional Japanese available and on evacuation order were:⁶³

Aliens	
Repatriates	225
Relief	150
"Voluntary"	50
Citizens	
"Voluntary"	350
Non-Internees	
Fishermen	2000
Kibei	475
Total	3250

By mid-December 1942, the WRA had ascertained that:

During the next twelve months the maximum number of evacuees could be approximately 5,000; but I believe the actual number will be no more than 3,000, and probably two less than that. The maximum shipment will be 150 every two weeks, unless the Western Defense Command succeeds in having the minimum single shipment raised to 500. There are many reasons for such a small evacuation, but the most tangible one is the lack of transportation. . . . I was assured . . . that no evacuees would be sent, other than repatriates, who would not be eligible for indefinite leave from our Centers. . . .

After essential war construction has tapered off, the tempo of the evacuation can be increased if transportation is available. It is extremely important that no Hawaiian Japanese be repatriated, at least for six months after they leave the Islands, nor should they be permitted to talk to other Japanese being repatriated, because most of the strategic and secret defense work in the islands has been constructed by Japanese. . . .

Influential white . . . individuals fear that it may not be long before the Japanese-Americans will have economic and political control of the Territory of Hawaii. Men like J.A. Balch, Chairman

of the Board of Directors of the Mutual Telephone Company of Honolulu, and Angus Taylor, U.S. Attorney, feel that this is the time to rid the Islands permanently of this dangerous Japanese influence.⁶⁴

On August 25, 1942, the first party of island Japanese, about 40 families, left Hawaii in exchange for Americans in Japan.⁶⁵ Since any Japanese alien might be exchanged for an American held by Japan, the War Department tried to use internment and detention to assure that no one recently familiar with Hawaii's defenses was returned to Japan; the Department favored repatriation from the mainland, not Hawaii.⁶⁶ On March 30, 1943, the Secretary of War wrote the Secretary of State:

There are . . . 783 Japanese nationals now in the United States who have been evacuated from Hawaii to the mainland prior to January 11, 1943. All these you may treat as available for repatriation subject to the right now exercised by intelligence agencies to object to any particular alien. . . .

[T]here are approximately 261 other Japanese nationals who have been evacuated from Hawaii to the mainland since January 11, 1943, and from time to time that number will probably be increased. If there are any in this category whose repatriation you particularly desire to effect, I suggest you furnish me their names and such other identifying data as may be available and I will undertake to give you a final decision in each case.⁶⁷

At the end of February 1943, Dillon Myer of the WRA requested that further evacuation from Hawaii be suspended. At the Jerome Relocation Center, Hawaiians were "unwilling workers, and half of them had answered 'no' to the loyalty question number 28 in the selective service registration form." In the director's words, "They definitely are not the kind of people who should be scattered among the West Coast evacuees." Also, the space they hoped to use for the Hawaiians had not become available; and the removal of people likely to be repatriated plus evacuees shifting from project to project was obstructing proper relocation center administration.⁶⁸

By March "everyone had agreed that this movement should cease, and on 2 April 1943 the War Department instructed General Emmons to suspend evacuation to the mainland until and unless the number of his internees exceeded the capacity of the Hawaiian Department's own facilities for internment, which never happened."⁶⁹

Beginning in February 1942 and continuing through December 1943, between 700 and 900 Hawaiian Japanese were removed to De-

partment of Justice internment camps on the mainland. Families were left behind.⁷⁰ Both aliens and Nisei departed, until it was determined that on the mainland the Justice Department had no authority to detain those who were citizens and therefore could not be classified as enemy aliens. In August 1942, the first group of Nisei were returned to confinement in Hawaii.⁷¹ Between November 12, 1942, and March 3, 1943, about 1,200 Japanese American aliens and citizens were evacuated from Hawaii, including approximately 474 adult males. A large proportion of the group was families of men previously interned.⁷² By the end of the war, a total of 1,875 Hawaiian residents of Japanese ancestry had been removed to the mainland; 1,118 to WRA camps and the remainder to Department of Justice internment camps. One hundred forty of those originally assigned to WRA camps were later transferred to Justice Department camps (some voluntarily to join their families), and 99 persons originally interned entered WRA camps on their parole or release.⁷³

Divergent policies toward ethnic Japanese in Hawaii and those on the mainland began to create administrative problems in 1945. Many Hawaiians who "voluntarily" evacuated to the mainland in 1943 agreed to do so partly as a matter of patriotic cooperation with the military authorities. But by mid-February 1945, reports had reached evacuees on the mainland that some who had not accepted voluntary evacuation, staying in Hawaii, had been released from detention and allowed to return home. The voluntary evacuees—still not permitted to go back to Hawaii—naturally felt that cooperation with the Army had plunged them into a worse situation. They were anxious to return. Secretary Eelos felt that "relocation in non-restricted parts of the United States at best is a temporary expedient."⁷⁴ The War Department soon established a board of officers to review the case of each Hawaiian evacuee to determine whether return would be permitted, and, if so, to assign that person a travel priority group. Travel preference was given to persons with children in the armed forces, to the aged, the infirm, and others in special circumstances.⁷⁵

The first group of ten evacuees and their families returned to Hawaii in July 1945. Nearly 1,500 evacuees eventually came home, some bringing children born on the mainland. With them came 206 West Coast Japanese, most of whom were former residents of the islands or those who had met and married islanders in camp. Only 241 Hawaiians elected to remain on the mainland, and only 248 Hawaiian Japanese chose wartime repatriation to Japan.⁷⁶

internment
total

THE INTERNEES

Out of nearly 158,000 ethnic Japanese in Hawaii, less than 2,000 were taken into custody during the war. Approximately one-third were American citizens, mostly Kibei. Several hundred ethnic Japanese were released after investigation, and several thousand more were investigated and cleared without being taken into custody.⁷⁷

Who were these "dangerous enemy aliens" picked up soon after Pearl Harbor? To qualify as a blacklisted enemy alien, one merely had to be a Japanese language teacher, a priest, a commercial fisherman, a merchant in the export-import trade. One might have received an education in Japan, sent contributions and Red Cross supplies for the Japanese wounded in the China War, or have been one of the *toritsuginin*, the unpaid subconsular agents who helped illiterate island residents prepare legal papers for the consulate. For others, grounds for arrest were merely leadership in the Japanese community.

None of the internees was guilty of overt acts against American laws; a few were investigated for espionage, but none for sabotage. In nearly every instance, the internees were judged "on personalities and their utterances, criminal and credit records, and probable nationalistic sympathies."⁷⁸

Some arrestees were locked up in a county jail, the immigration station or an internment camp in Haiku, Maui, awaiting transfer to the Army-administered Sand Island Detention Center across Honolulu Harbor. From there some were sent to War Relocation Authority camps on the mainland; others were transferred to Camp Honouliuli on Oahu.

Hearing boards were appointed on each island to try detainees and they had considerable procedural latitude. Hearings usually consisted of a summary of FBI evidence and questions about friends and relatives in Japan: whether the detainee had ever visited there or had donated food, clothing or money to that country's war effort. Depending on who was in charge, cases were decided in 15 to 20 minutes or in three to four days. The boards' recommendations for release, parole or detention were generally upheld by military authorities.⁷⁹ Internees paroled before the end of the war had to sign statements releasing the government and all individuals involved from any liability for their detention.⁸⁰

Some detainees felt that they had "pro forma" hearings:

[The] FBI asked me to go with them to the Department of Immigration for a little while to answer a few questions. When we

reached the Department of Immigration building I was put behind bars for several weeks and no questions were asked of me. We had our meals out in the yard enclosed by walls under armed guards with their rifles drawn. All the time I was there I was not told why I was being held behind bars and neither the FBI nor the Immigration officer asked me any questions. After this I was sent to Sand Island and remained there for six months. It was during my stay at Sand Island [that] the FBI [took] me to the Federal Building where the FBI and military officers question[ed] me. They put their guns on the table in plain view, like a threat. I felt that they were interrogating me as though I were a spy—but I was not. The FBI and military officers told me that since America was at war with Japan and because I was raised in Okinawa, Japan and regardless that I was an American citizen, I was an internee (P. O. W.).⁸¹

A few weeks prior to December 20, 1942, the government conducted two separate "hearings" at Wailuku, Maui, to determine the fate of the so-called "bad Japs." The officer in charge had already predetermined that we were not good American citizens and he would lock us up until the war was over. The hearings were in reality, merely individual interrogation of suspected "bad Japs." The officer asked several pointed questions which required a yes/no answer. If I answered affirmatively when asked whether I am loyal to the United States, they would accuse me of being a liar. But if I had said no, then I would be thrown in jail. I felt there was no way I could be considered a loyal American.⁸²

Conditions and treatment varied among the islands; internees on Maui probably fared best. There, families were allowed to visit and bring in food daily. In contrast, internees at Sand Island on Oahu were treated as criminals or prisoners-of-war until December 20, 1941, when the newly-appointed commander of the Hawaiian Department stated that the Japanese were "detainees" and therefore not governed by military regulations. At first, Sand Island internees were forbidden to communicate with the outside. Incoming letters had to be in English and were heavily censored. Starting in May 1942, newspapers and pencils, pens and paper were allowed in the camp, and family interviews were permitted. For six months internees lived in tents without floorboards until barracks were completed in May 1942. The camp office procured a radio in July, and loudspeakers were installed in each barrack. The loudspeakers not only broadcast music; they also served as receivers to monitor internees' conversations.⁸³

Many detainees were eventually released or paroled without restriction, mostly those who had been picked up for breaking curfew

Commercial
fishermen
as internees

or other regulations. The parole policy was colored by military concern for public relations:

In carry [sic] out the parole policy the release of large numbers at any one time is avoided so as not to create an inference that the military authorities are relaxing their vigilance. Likewise the release of prominent Japanese leaders of known Japanese tendencies is avoided although in the record of many of these cases it appears that no overt acts have been committed by them.⁸⁴

Social shock waves from the sudden pickup and detention of community leaders soon after Pearl Harbor spread beyond the individuals themselves. Families who had once enjoyed prestige and social recognition were suddenly outcasts, avoided by others who thought that any signs of friendship would make them suspect, too. Remaining Issei became reluctant to accept positions of leadership, lest they become suspect to the authorities.⁸⁵ To emphasize the distance between themselves and the enemy, 2,400 persons of Japanese descent in Hawaii filed petitions to Anglicize their names in 1942, and decrees for that year totalled more than all name-changes in the previous eight years.

On June 5, 1942, more than 1,700 Hawaiian Japanese presented a check to the American government for "bombs on Tokyo."⁸⁶

Despite these estrangements and hardships, it is to the Army's credit that for most of the population in Hawaii it followed the precept of General Emmons: "this is America and we must do things the American Way." His confidence in the people of the territory was reciprocated in innumerable intangible ways, most obviously in the superb record of military service by the Nisei of Hawaii. Hawaii's experience was the mirror image of the West Coast, where the official presumption of disloyalty bore bitter fruit in the alienation of the camps.

The differences between the Hawaiians and their mainland counterparts reflected more than just their treatment since Pearl Harbor. Their dissimilar attitudes appeared most clearly when the two groups were thrown together in the military. Hawaiians felt that West Coast Nisei lacked warmth, were not candid in their personal relationships, and seemed to handle the relocation problem in a weak, passive way. The mainlanders found the Hawaiians uncouth and too ready with their fists.⁸⁷ At the same time, the mainlanders envied the Hawaiians' ability "to take what comes their way with a smile." That the men from Hawaii had not spent their lives in an atmosphere of anti-Asian prejudice was reflected in their whole outlook.⁸⁸

Ironically, the *Duncan* case, which reached the Supreme Court

after the end of the war, challenged military rule in Hawaii. It also produced a decision that contradicted the *Korematsu* case on the mainland. Two individuals who had been tried in the military provost courts, a civilian shipfitter accused of assaulting Marine guards at the Pearl Harbor Navy Yard in February 1944, and a stockbroker tried for embezzling from a civilian in August 1942, challenged the power of the military to supplant the civil courts.⁸⁹ In the sense that the civil courts were replaced by the military, intrusion into normal civil life was greater than on the West Coast, but insofar as military courts operated to find and punish personal guilt, the deviation from the constitutional norm was less than in the exclusion. Hawaii had been attacked, so that upholding military control over civilians on the basis of the war powers of the Constitution should have been more compelling. Justice Black, author of the *Korematsu* opinion, once again wrote the majority opinion. Although in the strictest sense limited to interpreting the power of the governor of Hawaii under the Hawaiian Organic Act which permitted him "in case of rebellion or invasion or imminent danger thereof, when the public safety requires it, [to] suspend the privilege of the writ of habeas corpus, or place the Territory . . . under martial law," Black chose to interpret the statute by examining the historical relation of civil to military power. The Court itself posed the central issue by asking:

Have the principles and practices developed during the birth and growth of our political institutions been such as to persuade us that Congress intended that loyal civilians in loyal territory should have their daily conduct governed by military orders substituted for criminal laws, and that such civilians should be tried and punished by military tribunals?

No extensive paraphrase is needed to transform this to the central issue of the *Korematsu* case, in which military orders effectively became laws which the courts were not to question if military judgments under the war powers were given extensive deference.

No such deference was afforded the military in Hawaii. There was no talk in *Duncan* of the war powers of the Constitution or emphasis on Congressional authorization of extraordinary measures in wartime. Justice Black followed his question with an historical essay in which he found total military rule the antithesis of the American system of government and held that "martial law" in the statute could not have been intended to authorize supplanting of the civil courts. Since the statute directly spoke of suspending the writ of habeas corpus this seems to be a disingenuous analysis indeed. Black's private remarks

to Chief Justice Stone in response to criticism of a draft of the opinion are closer to the mark:

I think the Executive is without Constitutional powers to suspend all legislative enactments in loyal, uninvaded states, to substitute executive edicts for those laws, and to provide for their enforcement by agents chosen by and through tribunals set up by the Executive. . . . In other words, the Constitution, as I understand it, so far as civilians in legal uninvaded territory are concerned, empowers the Executive to "execute" a general code of civil laws, not executive edicts.⁹⁰

This decision in *Duncan v. Kahanamoku* is another lasting and important way in which the experience in Hawaii rebukes events on the West Coast. The case effectively overrules one major predicate of the *Korematsu* decision by showing no deference to military judgment when the control of civilians and civilian institutions in uninvaded territory is at stake. In deciding *Duncan*, the Supreme Court relied on the firm language of a similar case decided at the end of the Civil War, *Ex parte Milligan*: "civil liberty and this kind of martial law cannot endure together; the antagonism is irreconcilable."⁹¹ The same is true of *Duncan* and *Korematsu*.⁹²

12

Germans and German Americans

In the first six months of 1942, the United States was engaged in active warfare along the Atlantic Coast with the Germans, who had dispatched submarines to American Atlantic waters, where they patrolled outside harbors and roadsteads. Unconvoyed American ships were torpedoed and destroyed with comparative impunity before minefield defense and antisubmarine warfare became effective several months later. In the last weeks of January 1942, 13 ships were sunk totalling 95,000 gross tons, most of it strategically important tanker tonnage. In February, nearly 60 vessels went down in the North Atlantic and along the American East Coast; more than 100,000 tons were lost. At the same time, the naval war expanded to the east coast of Florida and the Caribbean. March 1942 saw 28 ships totalling more than 150,000 tons sunk along the East Coast and 15 others, more than 90,000 tons, lost in the Gulf of Mexico and the Caribbean. More than half were tankers. The destruction continued through April, May and June as American defenses developed slowly; the peak came in May, when 41 ships were lost in the Gulf.¹

This devastating warfare often came alarmingly close to shore. Sinkings could be watched from Florida resorts and, on June 15, two American ships were torpedoed in full view of bathers and picnickers at Virginia Beach.² The damage done was described by the Navy:

The massacre enjoyed by the U-boats along our Atlantic Coast in 1942 was as much a national disaster as if saboteurs had destroyed

Hawaii

1. William Petersen, *Japanese Americans* (New York: Random House 1971), p. 59.
2. Tamotsu Shibutani, *The Derelicts of Company K* (Berkeley: University of California Press, 1978), p. 21.
3. The G-2 staff in Hawaii "stated repeatedly to the [Western Defense Command] staff members that there was no problem in judging whether or not a person of Japanese ancestry was dangerous or non-dangerous; for all one had to do was sit and talk to the man for fifteen minutes and the [sic] would be no question in one's mind." WDC, *Supplemental Report on Civilian Controls Exercised by Western Defense Command*, Jan. 1947, pp. 174-75. NARS RG 338.
4. Robert Wilson and Bill Hosokawa, *East to America* (New York: William Morrow & Co., 1980), p. 27.
5. *Ibid.*, pp. 140-52.
6. Report. C. H. Coggins, "The Japanese in Hawaii," undated. NARS RG 50 (CWRIC 6964-84); Bureau of the Census, *Census of Population*, vol. 3, Characteristics of the Population, part I (Washington, DC: U.S. Government Printing Office, 1943), pp. 585-601.
7. Wilson and Hosokawa, *East to America*, p. 153.
8. Brief for United States, *Duncan v. Kahanamoku*, No. 14, Oct. Term 1945 (CWRIC 12166-75).
9. Stetson Conn, Rose C. Engelman and Byron Fairchild, *The United States Army in World War II, The Western Hemisphere: Guarding the United States and its Outposts* (Washington, DC: Office of the Chief of Military History, Department of the Army, 1964), p. 199. [hereafter "Guarding"]
10. Memo, District Intelligence Officer, Fourteenth Naval District to District Intelligence Officer, Third Naval District, Feb. 9, 1942, reprinted in Hearings before the Joint Committee on the Investigation of the Pearl Harbor Attack, 79th Cong. (Washington, DC: U.S. Government Printing Office, 1946, Part 35, pp. 337-38 [hereafter "Pearl Harbor Investigation"].
11. See Chapter 2, *Executive Order 9066*.
12. Pearl Harbor Investigation, Part 39, p. 120.
13. Diary, Stimson, Jan. 20, 1942. Sterling Library, Yale University (CWRIC 19596-98).
14. On the tiny isolated Hawaiian Island of Niihau where news of the Pearl Harbor bombing had not yet arrived, a crippled Japanese plane crashed on its return from the successful attack. A Hawaiian discovered the pilot

confiscated his weapons and papers. Ishimatsu Shintani, an Issei, and Yoshio Harada, a Nisei, acted as interpreters; the latter spent a short time privately with the pilot. After the meeting, Harada freed the pilot, helped him set up two machine guns in the village, and threatened to kill everyone unless the military papers were produced. In an unguarded moment six days later, two Hawaiians taken hostage jumped the pair. The pilot was killed and Harada fatally shot himself. Gwenfreed Allen, *Hawaii's War Years* (Westport, CT: Greenwood Press, 1971 [1950]), pp. 44-46.

15. Notes of Cabinet meeting, Biddle, Dec. 19, 1941. FDRL. Biddle Papers (CWRIC 3793).
16. *Honolulu Advertiser*, Dec. 22, 1941, pp. 1 and 6 (CWRIC 29567-69).
17. Ruth E. McKee, *History of WRA—Pearl Harbor to June 30, 1944*, unpublished manuscript, 1944, p. 165; Shibutani, *Derelicts of Company K*, p. 35.
18. Shibutani, *Derelicts of Company K*, p. 38.
19. McKee, *History of WRA*, p. 165.
20. *Ibid.*, p. 164.
21. Shibutani, *Derelicts of Company K*, p. 35.
22. McKee, *History of WRA*, p. 165.
23. Allen, *War Years*, p. 167.
24. *Ibid.*, pp. 141-42. } turning in of contraband
25. *Ibid.*, p. 396.
26. Conn, *Guarding*, p. 200.
27. Allen, *War Years*, pp. 141, 146-48, 402.
28. *Ibid.*, p. 120. The ID registration project was suggested in June 1941 to the Office of Civilian Defense to enable identification of persons killed in an attack. Plans had progressed so far that by 1:30 p.m. on December 7, the first ID cards were printed. By the end of the war, registration records and cards had been consulted 300,000 times by police and security agencies.
29. *Ibid.*, p. 92.
30. *Ibid.*, pp. 172-73.

The commission tried only eight cases during its four years of existence. Among them were three cases of murder, one of which resulted in the death sentence, later commuted to imprisonment. In that case, the defendant was represented by an officer who had no legal training, although the prosecution was in the hands of a trained attorney. The five commissioners were not lawyers, and in its study of the trial, the Department of Interior noted that the commissioners had not been told the distinction between first and second degree murder, even though the evidence strongly suggested the lesser charge.

The three Honolulu provost courts tried nearly 19,000 cases by the end of the first half of 1942. Trials were generally held on the same day as the arrest. Typically, "After the defendant had made his plea, all witnesses stood in a semicircle before the judge and were each peremptorily questioned by him. When the judge felt that he had sufficient evidence, he rendered an immediate decision, imposed sentence, and proceeded to the next case. The defendant could make a statement on his own behalf, but his allotment of time was frequently limited. He had little opportunity to cross-examine witnesses.

He could obtain a lawyer, although some judges indicated in open court that they did not desire attorneys to participate in the trials."

31. Brief for the United States, *Duncan v. Kahanamoku*, No. 14. Oct. Term 1945 (CWRIC 12166-75).

32. Allen, *War Years*, p. 174; Diary, Harold I. Ickes, Feb. 1, 1942. LC Collection. LC. Microfilm reel 5/12, p. 6303 (CWRIC 6583).

33. Brief for the United States, *Duncan v. Kahanamoku*, No. 14. Oct. Term 1945 (CWRIC 12166-75).

34. Diary, Ickes, Oct. 25, 1942. LC. Microfilm reel 2/12, p. 7561 (CWRIC 6554).

35. Brief for the United States, *Duncan v. Kahanamoku*, No. 14. Oct. Term 1945 (CWRIC 12166-75).

36. Conn. *Guarding*, p. 208.

37. *Ibid.*, pp. 208-09.

Immediately after the attack on Pearl Harbor, the Army had requested the authority to evacuate the families of servicemen to the mainland at government expense. It later expanded the request to include other civilian women and children who wanted to evacuate as well as tourists stranded on Oahu when the war broke out. Beyond removing civilians from a vulnerable Oahu, evacuation eased the housing shortage and left fewer mouths to feed. Conn. *Guarding*, p. 202).

38. *Ibid.*, p. 209.

39. *Idem.*

40. Memo. Chief of Staff to U.S. Joint Chiefs of Staff, Feb. 12, 1942. FDRL. PSF Confidential File (CWRIC 3664-65).

41. Conn. *Guarding*, p. 210.

42. *Ibid.*, pp. 210-11.

43. Memo, Dwight D. Eisenhower to McCloy, April 3, 1942. NARS. RG 107 (CWRIC 586-87).

44. Memo, McCloy to Eisenhower, March 28, 1942. NARS. RG 107 (CWRIC 585-89).

45. *Idem.*

46. Diary, Stimson, April 7, 1942. Sterling Library, Yale University (CWRIC 19763).

47. Diary, Stimson, April 15 and 24, 1942. Sterling Library, Yale University (CWRIC 19764-66).

48. Memo, Knox to FDR, April 20, 1942. NARS. RG 107 (CWRIC 552).

49. Cabinet meeting notes, Stimson, April 24, 1942. Sterling Library, Yale University (CWRIC 19731).

50. Diary, Stimson, April 28, 1942. Sterling Library, Yale University (CWRIC 19767).

51. Memo, King and Marshall to FDR, July 15, 1942. FDRL. PSF Confidential File (CWRIC 3815-16).

52. Letter, Emmons to McCloy, April 29, 1942. NARS. RG 107 (CWRIC 579-80).

53. Conn. *Guarding*, pp. 211-12.

54. Memo, J. R. Deane to McCloy, July 17, 1942. NARS. RG 107 (CWRIC 572).

55. Letter, Knox to FDR, Oct. 17, 1942. NARS. RG 107 (CWRIC 565).

56. Conn. *Guarding*, p. 212.

57. Telephone conversation, Bendetsen and Hall, Oct. 5, 1942. NARS. RG 338 (CWRIC 8202-06).

58. Letter, Knox to FDR, Oct. 17, 1942. NARS. RG 107 (CWRIC 565).

59. Letter, Stimson to FDR, Oct. 29, 1942. NARS. RG 107 (CWRIC 566).

60. Letter, Emmons to Stimson, Nov. 2, 1942. NARS. RG 107 (CWRIC 562).

61. Memo, FDR to Stimson and Marshall, Nov. 2, 1942. NARS. RG 107 (CWRIC 563).

62. Memo, McFadden to Bendetsen, Nov. 19, 1942. NARS. RG 338 (CWRIC 8200-01).

63. Memo, Blake to Officer in Charge, Dec. 1, 1942. NARS. RG 210 (CWRIC 29548-53).

64. Hawaiian Report, Edwin G. Arnold to Myer, Dec. 16, 1943. NARS. RG 210 (CWRIC 29554-60).

65. Allen, *War Years*, p. 397.

66. Memo, Hall to McCloy, Dec. 30, 1942. NARS. RG 107 (CWRIC 554-56).

67. Letter, Stimson to Hull, March 30, 1943. NARS. RG 59 (CWRIC 12792).

68. Letter, Myer to McCloy, Feb. 27, 1943. NARS. RG 107 (CWRIC 551-52). Some typical responses to loyalty question no. 28 were:

"I cannot answer until I find out why I was evacuated to the mainland."

"I was interned for 14 months, and if they can give me the reason for interning me, then I can decide."

"Previous to my detention my sincere frame of mind was loyalty to serve the USA in all emergency, namely armed forces, in active combat duty or to protect the country in which I inherited the constitutional rights, to defend USA from any or all attacks by foreign or domestic enemy activities. However, I was greatly angered because of detaining me as an enemy alien, in spite of the fact my status of orderly and law abiding citizen had been established without cause, reason or any other charge, as yet unknown to me, I greatly regret, however, wish to refrain from answering the above questions."

"It is difficult for me to answer questions 27 and 28 because I was interned at Sand Island, I swore allegiance to the USA but the FBI said that I was not a true American citizen and was forced to say no."

"During my period of 10 months in the concentration camp, I swore many times to the allegiance of these United States, but was not recognized by the government. When I was up before a Hearing Board, I was denied the privileges of a citizen, and at the present time, it is very difficult for me to answer these questions. This all happened before I was concentrated in the camp during an investigation held by the government." NARS. RG 210 (CWRIC 29561-62).

69. Conn. *Guarding*, p. 214.

70. WDC, *Supplemental Report on Civilian Controls Exercised by Western Defense Command*, Jan. 1947, p. 172. NARS. RG 338.

71. Keiho (Yasutaro) Soga, *Tessaku Seikatsu* (Honolulu: Hawaii Times Ltd., 1948). Selected excerpts transl. by Library of Congress (CWRIC 14865-82).

72. WDC, *Supplemental Report on Civilian Controls Exercised by Western Defense Command*, Jan. 1947, p. 173. NARS. RG 338.

73. Allen, *War Years*, p. 141.

74. Letter, Ickes to Stimson, Feb. 14, 1945. NARS. RG 210 (CWRIC 29563-64).

75. Letter, Stimson to Ickes, May 2, 1945. NARS. RG 210 (CWRIC 29565-66).

76. Allen, *War Years*, pp. 140-41.

77. *Ibid.*, p. 134.

78. *Idem.*

79. *Ibid.*, p. 135. The boards were allowed considerable latitude, and the hearings were informal and similar to those conducted on the West Coast. Accounts vary, however, with regard to the composition of the boards. Although Allen describes them as civilian, a number of internees indicate that they were composed of military officers.

80. *Ibid.*, p. 137.

81. Unsolicited testimony, Mitsunobu Miyahira.

82. Unsolicited testimony, Kwantoku Goya.

83. Soga, *Tessaku Seikatsu*.

84. Radio, Richardson to McCloy, Feb. 11, 1944. NARS. RG 107 (CWRIC 542).

85. Andrew W. Lind, *Hawaii Japanese: An Experiment in Democracy* (Princeton: Princeton University Press, 1946), pp. 74, 104.

86. Allen, *War Years*, p. 399.

87. Shibutani, *Derelicts of Company K*, pp. 82-83.

88. Thomas D. Murphy, *Ambassadors in Arms* (Honolulu: University of Hawaii Press, 1954), pp. 114-15.

89. *Duncan v. Kahanamoku*, 327 U.S. 304 (1946).

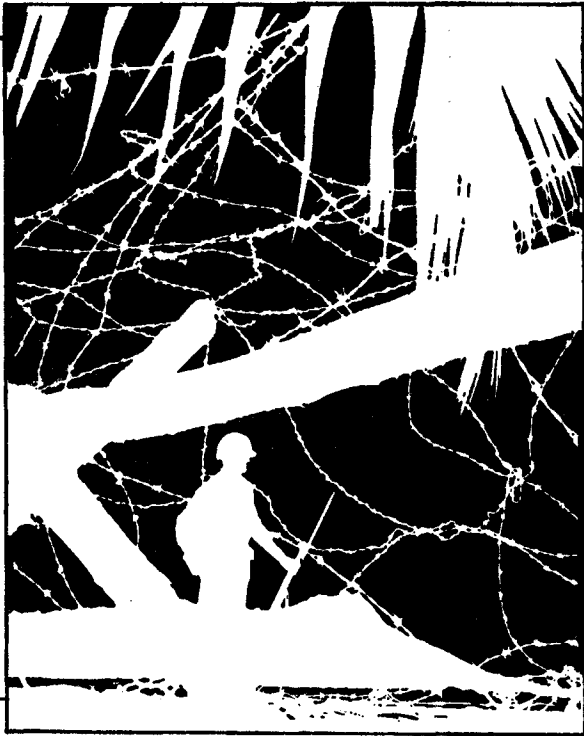
90. Letter, Black to Stone, Jan. 18, 1946. LC, Hugo Black Papers (CWRIC 12597-99).

91. *Ex parte Milligan*, 71 U.S. 2, 124 (1866).

92. For an analysis which reconciles *Duncan* and *Korematsu*, see Charles Fairman, "The Supreme Court on Military Jurisdiction: Martial Rule in Hawaii and the Yamashita Case," 59 Harv. L. Rev. 833 (1946). Fairman sees the distinction between the cases in the fact that in Hawaii the military government "did not recognize adequately that the civil government should rightly have continued to preside over all matters which the public defense did not require to be placed under direct military control, nor did it take into proper account the basic principle that the commander's authority over civil affairs is limited to measures of demonstrable necessity." (p. 858) Fairman extensively analyzes

the facts and record in *Duncan* but makes no close examination of the facts in *Korematsu*. It is, of course, the Commission's conclusion after studying the factual record that no showing of "demonstrable necessity" could have been made.

Hawaii's War Years



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This ended the actual evacuation of Japanese, although planning and discussions continued. Early in 1943, the Army considered moving to the Mainland 1,500 Japanese who were on relief, on the theory that this would not increase the serious manpower shortage. Some persons asked to be removed from the relief rolls in order to avoid evacuation.

The Navy was more insistent on evacuation than the Army. Secretary of the Navy Knox told Congress in March, 1943, that he had been pressing to have "those whom we know to be dangerous" evacuated from Oahu, but that the program had not been followed to the extent he would like.

In the spring of 1943 the president of one of Honolulu's largest public utilities gave wide distribution to his pamphlet, *Should the Japanese Be Allowed to Dominate Hawaii?*, in which he urged the permanent removal of 100,000 Japanese from the Islands and greater surveillance of all the others during the war period. Such discussion gradually died out, however, with the moving of the war to the west and increasing evidence of American sympathy on the part of the Japanese population of Hawaii.

Internees and their families began to return to the Islands even before the end of the war. Early in July, 1945, the first group of 10 came back, and the heads of 191 families and their 202 dependents had been cleared for return. Priority was based on health, age, dependence, and relationship to members of the American armed forces.

In November and again in December, several hundred internees and their families returned to Honolulu. Thousands of relatives and friends, laden with leis, jammed the piers for a true Hawaiian welcome. The demonstrations aroused much criticism; but it was only natural that wives and children should be overjoyed to see husbands and fathers from whom they had been separated for four years. In their eyes, as well as in the eyes of the government, the internees had committed no crimes. Most of them had simply suffered the consequences of occupying positions of prestige within their own suspect alien community.

Social workers helped actively again with the problems of return, especially the difficult matter of housing. When necessary, living expenses for a maximum of 90 days were provided from the federal War Assistance Program funds, and families with children were given from \$150 to \$300 to purchase furniture.

Many of the older internees never picked up the threads of their prewar existence. Priests and language school teachers found their organizations dissolved or financial support lessened; others found that their businesses had been sold or were being managed by the younger generation. Some were more fortunate, however. For example, one

legislator who had been interned led his ticket on re-election to the territorial house of representatives.

Altogether, 1,875 persons were sent from Hawaii—1,118 to relocation centers, and 757 to Department of Justice internment camps. Subsequently, 140 persons originally assigned to relocation centers were transferred to Justice camps. Some made the change voluntarily to be with members of their family, and 99 originally interned entered relocation camps on their release or parole.

Nearly 1,500 returned to Hawaii, some bringing with them babies born on the Mainland, and 241 chose to stay there. Eighteen died—an amazingly low mortality, considering the advanced age of some of the internees. Only 248 persons from Hawaii chose wartime repatriation to Japan.

With the Island evacuees who returned came 206 West Coast Japanese, most of whom were former residents of the Islands or had family ties here. Many were Islanders who had been studying at West Coast colleges at the start of the war; some were Mainland residents who met and married Islanders at internment centers.

CONTROLS WERE STRINGENT against enemy aliens and in some cases against American citizens of Japanese descent. At first they affected Koreans as well, but numerous protests of 2,000 Koreans in Hawaii that they were not enemy in spirit resulted in some exceptions, and finally, in their removal by the military governor from enemy alien status in December, 1943.

General orders issued from the military governor's office commanded that no enemy alien could undertake an air flight, change his residence or occupation, or "otherwise travel or move from place to place" without the approval of the provost marshal. Nor were they permitted to buy or sell liquor, be employed in restricted areas without permission, or be at large during the blackout. Some of these restrictions were later clarified or modified. Japanese newspapers were temporarily suspended and foreign language broadcasts discontinued.

Some controls threw Japanese fishermen, photographers, printers, bank employees, sake brewers, and liquor dealers out of employment. The military ordered Japanese discharged from some other jobs, and ultra-patriotic employers dropped others. The Friends' Society helped in obtaining jobs for many of these at first but the intense manpower shortage soon offered a multitude of opportunities for everyone.

Aliens were required to turn in to the nearest police station all implements of war, fireworks, cameras, short-wave receiving sets, and numerous other items. This order was issued December 8 and broadcast

over the radio that day, but did not receive newspaper publication until the following morning. Despite the fact that it could scarcely reach everyone concerned in time, it asserted that aliens in possession of contraband articles after 5:00 P.M., December 8, would be "subject to severe punishment." On Kauai, a district regulation requiring firearms to be turned in "prior to 4:00 o'clock P.M. December 12" was not issued until December 20.

Some aliens dumped valuable articles at the doors of police stations and hastened away without waiting for a receipt or seeing that the articles were properly tagged. Others, especially those who turned in goods after the early deadlines, refused to give their names. The Army Signal Corps, assisted by volunteers, made house-to-house searches in areas of Japanese concentration to pick up contraband articles. The receipts which some of these collectors gave were mere scraps of paper with hastily scrawled data insufficient for later identification of goods.

An alien property custodian was appointed by the military governor December 20, with an internee property controller as his assistant. There were some changes in this set-up, and later the alien property custodian office of the Hawaiian Ordnance Depot took control.

In February, 1942, an order forbade possession of radio sets with a short-wave receiving band in any household where an enemy alien might have access to them. This caused a storm of protest from employers of Japanese house servants. The order was then changed so that the set could be retained if the short-wave band were altered or removed. The Signal Corps modified 13,000 radios, and used the parts removed as replacements for Army radios.

In the warehouses filled with alien goods, some articles deteriorated as a result of incorrect handling or from natural causes. Some items which became scarce as the war progressed, or which had souvenir value, disappeared. Radios were made available to special service officers; binoculars and telescopes were given to the Navy; and some fireworks were used at jungle training centers to simulate war conditions.

After the war, owners were slow in responding to appeals to claim their property, either at the ordnance depot, or at the Young Men's Buddhist Association, to which the Army finally moved the material. A board of officers heard claims for lost or damaged property and struggled to set dollars-and-cents values on heirloom *samurai* swords and schoolday photograph albums. The Army found it difficult to persuade owners to file claims, and many Island Japanese who never recovered their goods are hesitant to press the matter.

Meanwhile, the Foreign Funds Control Office, which had been administering the freeze order on assets of enemy aliens, strengthened

its controls at the outbreak of the war. Enemy nationals were permitted to engage in business only under general licenses issued by the office over the signature of the governor of Hawaii. Despite some relaxations, the economic activities of alien Japanese were drastically curtailed until June 23, 1944, when all interests were "unblocked" except those of internees and enemy nationals living in enemy territory.

The federal government's Alien Property Custodian had jurisdiction over productive assets of aliens in order to keep them from the enemy and to use them for the American war effort. (This office is not to be confused with the previously mentioned alien property custodian of the military governor and of the Hawaiian Ordnance Depot, which handled impounded property taken for the duration with the intention of ultimate return.) In addition to the exercise of supervisory functions over certain properties, the federal custodian also took outright possession of 42 Island corporations and approximately 100 parcels of real estate. Under the Trading with the Enemy Act, property vested from "non-hostile persons" was to be returned, and the rest was to be sold. During late 1944 and early 1945, much alien property was sold, and the sales continued during the next few years. In December of 1948, however, the government still held 17 corporations and 41 parcels of land in Hawaii valued at \$8,000,000.

Under the War Claims Act of 1948, Congress provided that proceeds from sale of vested properties, after payment of creditors and administrative expenses, would be used in paying claims filed by persons interned by the Japanese government.

THE TASK OF "WINNING THE JAPANESE population to American ideals," started before the war, continued as a definite part of the campaign against sabotage and espionage.

A general order on December 8 enjoined the Japanese to keep the peace, obey all laws and regulations, and refrain from active hostility. It promised:

So long as they shall conduct themselves in accordance with law, they shall be undisturbed in the peaceful pursuit of their lives and occupations and be accorded the consideration due to all peaceful and law-abiding persons, except so far as restrictions may be necessary for their own protection and for the safety of the United States. All citizens of the United States are enjoined to preserve the peace and to treat them with all such friendliness as may be compatible with loyalty and allegiance to the United States.

Honolulu business leaders urged racial unity. The president of the Chamber of Commerce appealed for use in the war effort "of every man, regardless of race or color," and there were other appeals for fair treatment for the Japanese. As a result of discussions with the prewar

were "not at all alarming." The head of the military police said that, although fights involving soldiers in November and December were double the number for the preceding two months, the increase was surprisingly small considering that liquor bans had been lifted. The senior Navy shore patrol officer said that enlisted men often used supposed affrays as excuses for being late and that the average of verified sailor fights was less than one a day.

Early in 1946, soldier mass meetings, in Hawaii as at other overseas points, protested the "slow-down" in demobilization. Hickam Field men addressed a resolution "To the People, President and Congress of the United States"; an Oahu Servicemen's Committee for Speedier Demobilization came into being; and a committee appointed to go to Washington failed to make the trip only because permission was refused. Marine officers forbade similar demonstrations.

War workers were in a hurry to get home and get peacetime employment while manpower was still scarce. Many quit their jobs in Hawaii even before V-J Day and attempted, usually unsuccessfully, to obtain passage to the Mainland. Even after the war, most of them were refused releases, and by quitting without a release they forfeited return passage home. They claimed that the Navy was keeping excess workers at Pearl Harbor, and the grievance committee of their All-States Club wrote Washington officials that there were three or four men on every job. The Secretary of the Navy replied that men were being held to their agreements in order to prevent hardship while awaiting ships to take them home. Transportation became available quickly, however. Servicemen left in large numbers in the spring of 1946. The number of civilian employees of the services and service contractors was cut back to pre-war levels by the start of 1947 and was sharply cut again in 1949.

Some veterans and war workers went home but later returned to Hawaii. Estimates in 1947 and 1948 of the number of ex-GI's who had adopted Hawaii as their postwar home varied from 3,000 to 7,000. They helped to swell Hawaii's civilian population from the 1940 level of 423,000 to nearly 500,000 in 1949. The increase was confined almost entirely to Oahu.

THE SERVICES BEGAN RETURNING LAND which they had requisitioned for war purposes. Sometimes the Territory and private owners accepted buildings constructed by the services in lieu of restoration of premises to their original state. As a result they gained title to quonset huts and many hard-to-get materials. In other cases, Hawaii suffered a serious loss in the agricultural value of some land which had been used for landing strips and barracks.

Within a few months, many camps were almost deserted except for demolition squads combing ranges for unexploded bombs and shells. The winds whistled through empty buildings, and weeds grew and cattle grazed where tent cities once stood. A few near-by stores continued in business and were still receiving goods ordered before the last troops left. A year after the war, the Navy and Marines held less than 3,000 of the 118,000 acres they had leased from civilians, but the Army had about a quarter of the 210,000 acres it had taken over. Early in 1949 the Army was still ironing out details for the return of the last 26,000 acres.

Meanwhile, however, the services were acquiring more land for permanent use, over the protests of Island residents that the economy of the Islands was adversely affected by the removal of such great areas from civilian use and from tax rolls. Navy plans in 1946 to acquire 1,200 additional acres on the Pearl Harbor perimeter gave rise to charges of "land grabbing" and "going on a spending spree." Smoldering wartime opposition to the seizure of land burst into the open in newspaper articles describing the plight of individual owners who were made homeless in crowded Hawaii and who felt that they were insufficiently recompensed for their property. The matter was carried to Washington and repercussions were heard in the 1948 territorial political campaign.

The services kept their fee simple land, despite the efforts of a committee appointed by the governor in June, 1946, to seek return of some of the military land not needed by the services and despite a Washington directive that the services consider returning as much land as possible to civilians. A special effort was made by civilians for the release of the Army's long-held Fort De Russy, and possibly other areas within the Honolulu city limits, on the grounds that modern warfare made them antiquated and that the land was badly needed for the growth of the city. Early in 1949, severe cutbacks placed many installations on a stand-by status, but it appeared that few would be definitely abandoned. The cutbacks confined Army activities chiefly to seven major posts on Oahu and the Navy mainly to Pearl Harbor and Barber's Point.

Many uncontested claims were settled promptly, but years may elapse before final payment is made in all cases for lands taken, crops destroyed, and war damage incurred.

Claims for damage to real and personal property of American citizens suffered between December 6, 1941, and July 1, 1942, were handled by the federal government's War Damage Corporation, which was organized by the Reconstruction Finance Corporation soon after the war started. In 1943, two government agents spent two months in Hawaii receiving claims which ranged from one for \$10 for shrapnel holes in the walls of a residence to \$51,000 for damages to privately owned post exchanges

at Hickam and Wheeler Fields. Most of the damage had been incurred on December 7, but there were also small claims for the shellings of Kahului, Nawiliwili, and Hilo, for the burning of Howard Kaleohano's home on Niihau by the Japanese aviator, and for accidental firing on buildings at Nanakuli when defense troops thought they sighted a submarine in the bay.

The War Damage Corporation awarded \$219,000 on these claims. The corporation refused claims for indirect damage, such as loss of cattle when a ranch fence was cut and death of mullet in a fish pond which had been flooded with oil from sinking ships.

Some types of claims were paid by the Army. During the first year of the war, the Army Department judge advocate heard nearly 200 claims, most of them for crop damage caused by troop occupation of arable lands, construction of fortifications, or clearing of fields of fire around military installations. Claims during the rest of the war mounted far above the 1,000 mark, many for property damage from accidents involving military vehicles.

Some claims which were not otherwise covered were submitted to Congress as individual bills by Hawaii's delegate, and late in 1945 a congressional subcommittee on war damage claims held hearings in Honolulu and Hilo. Ewa Plantation asked \$60,000 for 91 accidental cane fires. A laundry asked \$22,000 for losses suffered as a result of destruction of its accounting records ordered by the Navy for security reasons at the outset of the war. A Navy widow asked \$100,000 for business losses due to her enforced evacuation from the Islands. Two breweries asked a total of \$176,000 for losses sustained as a result of what they called "unjustifiable and discriminatory price control operations of the OPA." A liquor establishment asked for \$49,000 for losses suffered when the military governor seized its stock. Fishermen asked damages for injuries to themselves and sampans when they were fired upon at the outbreak of the war. Others asked to be recompensed for the loss of pigeons loaned to the Army Signal Corps and never returned, the removal of soil, use or occupation of their lands, and injuries resulting from automobile and airplane accidents, fights with service personnel, and explosions of duds. A dozen claims by Honolulu business firms, the Territory of Hawaii, and the County of Maui asked a total of \$500,000 for damage done to building surfaces by camouflaging.

Some of these were passed, some were denied, and some were never acted upon. The War Damage Corporation did not reimburse aliens, although they suffered much of the damage on December 7. Consequently, private bills were introduced into Congress on their behalf. Congress, however, took the attitude that settlement of claims of non-

citizens for death, injury, or property loss due to combat activity should await decision on the question of reparations from Japan.

In July, 1948, two congressional laws offered compensation for certain special losses. The War Claims Act of 1948 provided benefits for war workers injured, killed, or taken prisoner, and for other internees and prisoners of war of Japan. Money for the benefits was to be made available from sale of property seized under the Trading with the Enemy Act. The law affected a comparatively small group of Hawaii residents who were in the Philippines, Wake, or Guam at the outset of the war. The second law provided payment for claims filed before the end of 1949 for loss of property as a consequence of evacuation or exclusion from Hawaii. Bills introduced into Congress to permit persons "unlawfully interned" to sue for \$1.00 a day for such internment failed to pass.

AT CESSATION OF HOSTILITIES, mountains of supplies crowded every Army and Navy warehouse in the Islands and points westward. Equipment brought back from forward areas in various stages of wear and disorder contributed to the confusion; much material was uncoun-
ted and some even unsorted.

In Hawaii, as elsewhere, the slow pace in sales of articles scarce in the civilian community caused impatience. Stories of destruction of materials at Makalapa and Schofield brought an investigation by a senate subcommittee on surpluses, but results were rather inconclusive. The services and surplus officials explained that covered storage space for surplus material was not adequate, that goods were packaged lightly and deteriorated with holding, that casual observers frequently reported destruction of what was really useless, and that often it had been a question of destroying \$500 worth of material or spending \$1,000 to move it where it might be sold.

Surplus sales started in October, 1945, under the Surplus Property Office, and continued under the War Assets Administration until December, 1948. Some 400 sales on Oahu and on the other islands realized about 20 per cent of the original value of \$360,000,000.

Buyers from the Mainland, South America, and other distant points bought much of the heavy construction equipment—booms, derricks, concrete mixers, and steam rollers. The United Nations Relief and Rehabilitation Administration purchased large quantities of these for relief work in China. Construction materials were in special demand in Hawaii after the 1946 tidal wave. At least 25,000 vehicles were declared surplus in Hawaii—trucks by the thousands, but relatively few passenger cars and so few jeeps that they were all taken by veterans on priorities. Hundreds of planes found buyers, but others were broken up and disposed of

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1 ment of Civilians Act, accurately and completely de-
 2 scribe the circumstances of the exclusion, relocation,
 3 and internment of in excess of one hundred and ten
 4 thousand United States citizens and permanent resident
 5 aliens of Japanese ancestry and the treatment of the
 6 individuals of Aleut ancestry who were removed from
 7 the Aleutian and the Pribilof Islands;

8 (2) the internment of individuals of Japanese an-
 9 cestry was carried out without any documented acts of
 10 espionage or sabotage, or other acts of disloyalty by
 11 any citizens or permanent resident aliens of Japanese
 12 ancestry on the west coast;

13 (3) there was no military or security reason for
 14 the internment;

15 (4) the internment of the individuals of Japanese
 16 ancestry was caused by racial prejudice, war hysteria,
 17 and a failure of political leadership;

18 (5) the excluded individuals of Japanese ancestry
 19 suffered enormous damages and losses, both material
 20 and intangible, and there were incalculable losses in
 21 education and job training, all of which resulted in sig-
 22 nificant human suffering;

23 (6) the basic civil liberties and constitutional rights
 24 of those individuals of Japanese ancestry interned were

1 fundamentally violated by that evacuation and
 2 internment;

3 (7) as documented in the Commission's reports,
 4 the Aleut civilian residents of the Pribilof Islands and
 5 the Aleutian Islands west of Unimak Island were relo-
 6 cated during World War II to temporary camps in iso-
 7 lated regions of southeast Alaska where they re-
 8 mained, under United States control and in the care of
 9 the United States, until long after any potential danger
 10 to their home villages had passed;

11 (8) the United States failed to provide reasonable
 12 care for the Aleuts, and this resulted in widespread ill-
 13 ness, disease, and death among the residents of the
 14 camps; and the United States further failed to protect
 15 Aleut personal and community property while such
 16 property was in its possession or under its control;

17 (9) the United States has not compensated the
 18 Aleuts adequately for the conversion or destruction of
 19 personal property caused by the United States military
 20 occupation of Aleut villages during World War II;

21 (10) the United States has not removed certain
 22 abandoned military equipment and structures from in-
 23 habited Aleutian Islands following World War II, thus
 24 creating conditions which constitute potential hazards

1 to the health and welfare of the residents of the
2 islands;

3 (11) the United States has not rehabilitated Attu
4 village, thus precluding the development of Attu Island
5 for the benefit of the Aleut people and impairing the
6 preservation of traditional Aleut property on the island;
7 and

8 (12) there is no remedy for injustices suffered by
9 the Aleuts during World War II except an Act of Con-
10 gress providing appropriate compensation for those
11 losses which are attributable to the conduct of United
12 States forces and other officials and employees of the
13 United States.

14 (b) PURPOSES.—The purposes of this Act are to—

15 (1) acknowledge the fundamental injustice of the
16 evacuation, relocation, and internment of United States
17 citizens and permanent resident aliens of Japanese
18 ancestry;

19 (2) apologize on behalf of the people of the United
20 States for the evacuation, relocation, and internment of
21 the citizens and permanent resident aliens of Japanese
22 ancestry;

23 (3) provide for a public education fund to finance
24 efforts to inform the public about the internment of

1 such individuals so as to prevent the reoccurrence of
2 any similar event;

3 (4) make restitution to those individuals of Japa-
4 nese ancestry who were interned;

5 (5) make restitution to Aleut residents of the Pri-
6 bilof Islands and the Aleutian Islands west of Unimak
7 Island, in settlement of United States obligations in
8 equity and at law, for—

9 (A) injustices suffered and unreasonable hard-
10 ships endured while under United States control
11 during World War II;

12 (B) personal property taken or destroyed by
13 United States forces during World War II;

14 (C) community property, including communi-
15 ty church property, taken or destroyed by United
16 States forces during World War II; and

17 (D) traditional village lands on Attu Island
18 not rehabilitated after World War II for Aleut oc-
19 cupation or other productive use.

20 **TITLE I—RECOGNITION OF INJUSTICE AND**
21 **APOLOGY ON BEHALF OF THE NATION**

22 **SEC. 101.** The Congress accepts the findings of the
23 Commission on Wartime Relocation and Internment of Civil-
24 ians and recognizes that a grave injustice was done to both
25 citizens and resident aliens of Japanese ancestry by the evac-

1 uation, relocation, and internment of civilians during World
2 War II. On behalf of the Nation, the Congress apologizes.

3 TITLE II—UNITED STATES CITIZENS OF JAPA-
4 NESE ANCESTRY AND RESIDENT JAPANESE
5 ALIENS

6 DEFINITIONS

7 SEC. 201. For the purposes of this title—

8 (1) the term “eligible individual” means any living
9 individual of Japanese ancestry who—

10 (A) was enrolled on the records of the United
11 States Government during the period beginning
12 on December 7, 1941, and ending on June 30,
13 1946, as being in a prohibited military zone; or

14 (B) was confined, held in custody, or other-
15 wise deprived of liberty or property during the
16 period as a result of—

17 (i) Executive Order Numbered 9066
18 (February 19, 1942; 7 Fed. Reg. 1407);

19 (ii) the Act entitled “An Act to provide
20 a penalty for violation of restrictions or
21 orders with respect to persons entering, re-
22 maining in, leaving, or committing any act in
23 military areas or zones” and approved March
24 21, 1942 (56 Stat. 173); or

1 (iii) any other Executive order, Presi-
2 dential proclamation, law of the United
3 States, directive of the Armed Forces of the
4 United States, or other action made by or on
5 behalf of the United States or its agents,
6 representatives, officers, or employees re-
7 specting the exclusion, relocation, or deten-
8 tion of individuals on the basis of race;

9 (2) the term “Fund” means the Civil Liberties
10 Public Education Fund established in section 204;

11 (3) the term “Board” means the Civil Liberties
12 Public Education Fund Board of Directors established
13 in section 206;

14 (4) the term “evacuation, relocation, and intern-
15 ment period” means that period beginning on Decem-
16 ber 7, 1941, and ending on June 30, 1946; and

17 (5) the term “Commission” means the Commis-
18 sion on Wartime Relocation and Internment of Civil-
19 ians, established by the Commission on Wartime Relo-
20 cation and Internment of Civilians Act.

21 CRIMINAL CONVICTIONS

22 SEC. 202. (a) REVIEW.—The Attorney General shall
23 review all cases in which United States citizens and perma-
24 nent resident aliens of Japanese ancestry were convicted of
25 violations of laws of the United States, including convictions
26 for violations of military orders, where such convictions re-

1 sulted from charges filed against such individuals during the
2 evacuation, relocation and internment period.

3 (b) RECOMMENDATIONS.—Based upon the review re-
4 quired by subsection (a), the Attorney General shall recom-
5 mend to the President for pardon consideration those convic-
6 tions which the Attorney General finds were based on a re-
7 fusal by such individuals to accept treatment that discrimi-
8 nated against them on the basis of race or ethnicity.

9 (c) PARDONS.—In consideration of the findings con-
10 tained in this Act, the President is requested to offer pardons
11 to those individuals recommended by the Attorney General
12 pursuant to subsection (b).

13 CONSIDERATION OF COMMISSION FINDINGS

14 SEC. 203. Departments and agencies of the United
15 States Government to which eligible individuals may apply
16 for the restitution of positions, status or entitlements lost in
17 whole or in part because of discriminatory acts of the United
18 States Government against such individuals based upon their
19 race or ethnicity and which occurred during the evacuation,
20 relocation, and internment period shall review such applica-
21 tions for restitution of positions, status or entitlements with
22 liberality, giving full consideration to the historical findings of
23 the Commission and the findings contained in this Act.

24 TRUST FUND

25 SEC. 204. (a) ESTABLISHMENT.—There is hereby es-
26 tablished in the Treasury of the United States the Civil Lib-

1 erties Public Education Fund, to be administered by the Sec-
2 retary of the Treasury. Amounts in the Fund shall be invest-
3 ed in accordance with section 9702 of title 31, United States
4 Code, and shall only be available for disbursement by the
5 Attorney General under section 205, and by the Board of
6 Directors of the Fund under section 206.

7 (b) AUTHORIZATION.—There are authorized to be ap-
8 propriated to the Fund \$1,500,000,000.

9 RESTITUTION

10 SEC. 205. (a) LOCATION OF ELIGIBLE INDIVIDUALS.—

11 (1) The Attorney General, with the assistance of the Board,
12 shall locate, using records already in the possession of the
13 United States Government, each eligible individual and shall
14 pay out of the Fund to each such individual the sum of
15 \$20,000. The Attorney General shall encourage each eligible
16 individual to submit his or her current address to the Depart-
17 ment of Justice through a public awareness campaign.

18 (2) If an eligible individual refuses to accept any pay-
19 ment under this section, such amount shall remain in the
20 Fund and no payment shall be made under this section to
21 such individual at any future date.

22 (b) PREFERENCE TO OLDEST.—The Attorney General
23 shall endeavor to make payment to eligible individuals who
24 are living in the order of date of birth (with the oldest receiv-
25 ing full payment first), until all eligible individuals who are
26 living have received payment in full.

1 (c) NONRESIDENTS.—In attempting to locate any eligi-
2 ble individual who resides outside the United States, the At-
3 torney General may use any available facility or resources of
4 any public or nonprofit organization.

5 (d) NO SET OFF FOR ADMINISTRATIVE COSTS.—No
6 costs incurred by the Attorney General in carrying out this
7 section shall be paid from the Fund or set off against, or
8 otherwise deducted from, any payment under this section to
9 any eligible individual.

10 BOARD OF DIRECTORS

11 SEC. 206. (a) ESTABLISHMENT.—There is hereby es-
12 tablished the Civil Liberties Public Education Fund Board of
13 Directors which shall be responsible for making disburse-
14 ments from the Fund in the manner provided in this section.

15 (b) DISBURSEMENTS FROM FUND.—The Board of Di-
16 rectors may make disbursements from the Fund only—

17 (1) to sponsor research and public educational ac-
18 tivities so that the events surrounding the relocation
19 and internment of United States citizens and perma-
20 nent resident aliens of Japanese ancestry will be re-
21 membered, and so that the causes and circumstances of
22 this and similar events may be illuminated and
23 understood;

24 (2) to fund comparative studies of similar civil lib-
25 erties abuses, or to fund comparative studies of the
26 effect upon particular groups of racial prejudice em-

1 bodied by Government action in times of national
2 stress;

3 (3) to prepare and distribute the hearings and
4 findings of the Commission to textbook publishers, edu-
5 cators, and libraries;

6 (4) for the general welfare of the ethnic Japanese
7 community in the United States, taking into consider-
8 ation the effect of the exclusion and detention on the
9 descendants of those individuals who were detained
10 during the evacuation, relocation, and internment
11 period (individual payments in compensation for loss or
12 damages shall not be made under this paragraph); and

13 (5) for reasonable administrative expenses, includ-
14 ing expenses incurred under subsections (c)(3), (d), and
15 (e).

16 (c) MEMBERSHIP AND TERMS OF OFFICE.—(1) The
17 Board shall be composed of nine members appointed by the
18 President, by and with the advice and consent of the Senate,
19 from persons who are not officers or employees of the United
20 States Government. At least five of the individuals appointed
21 shall be individuals who are of Japanese ancestry.

22 (2)(A) Except as provided in subparagraphs (B) and (C),
23 members shall be appointed for terms of three years.

24 (B) Of the members first appointed—

1 (i) five shall be appointed for terms of three years;
2 and

3 (ii) four shall be appointed for terms of two years;
4 as designated by the President at the time of appoint-
5 ment.

6 (C) Any member appointed to fill a vacancy occurring
7 before the expiration of the term for which his predecessor
8 was appointed shall be appointed only for the remainder of
9 such term. A member may serve after the expiration of his
10 term until his successor has taken office. No individual may
11 be appointed to more than two consecutive terms.

12 (3) Members of the Board shall serve without pay,
13 except members of the Board shall be entitled to reimburse-
14 ment for travel, subsistence, and other necessary expenses
15 incurred by them in carrying out the functions of the Board,
16 in the same manner as persons employed intermittently in the
17 United States Government are allowed expenses under sec-
18 tion 5703 of title 5, United States Code.

19 (4) Five members of the Board shall constitute a quorum
20 but a lesser number may hold hearings.

21 (5) The Chair of the Board shall be elected by the mem-
22 bers of the Board.

23 (d)(1) The Board shall have a Director who shall be ap-
24 pointed by the Board and who shall be paid at a rate not to
25 exceed the minimum rate of basic pay payable for GS-18 of

1 the General Schedule under section 5332(a) of title 5, United
2 States Code.

3 (2) The Board may appoint and fix the pay of such addi-
4 tional staff personnel as it may require.

5 (3) The Director and the additional staff personnel of the
6 Board may be appointed without regard to section 5311(B) of
7 title 5, United States Code and may be appointed without
8 regard to the provisions of such title governing appointments
9 in the competitive service, and may be paid without regard to
10 the provisions of chapter 51 and subchapter III of chapter 53
11 of such title relating to classification and General Schedule
12 pay rates, except that the compensation of any employee of
13 the Board may not exceed a rate equivalent to the rate pay-
14 able under GS-18 of the General Schedule under section
15 5332(a) of such title.

16 (e) SUPPORT SERVICES.—The Administrator of Gener-
17 al Services shall provide to the Board of Directors on a reim-
18 bursable basis such administrative support services as the
19 Board may request.

20 (f) DONATIONS.—The Board may accept, use, and dis-
21 pose of gifts or donations or services or property for purposes
22 authorized under subsection (b).

23 (g) ANNUAL REPORT.—Not later than twelve months
24 after the first meeting of the Board and every twelve months
25 thereafter, the Board shall transmit a report describing the

1 activities of the Board to the President and to each House of
2 the Congress.

3 (h) SUNSET FOR BOARD.—The Board shall terminate
4 not later than the earlier of ninety days after the date on
5 which an amount has been obligated to be expended from the
6 Fund which is equal to the amount authorized to be appropri-
7 ated to the Fund or ten years after the date of enactment of
8 this Act. Investments shall be liquidated and receipts thereof
9 deposited in the Fund and all funds remaining in the Fund
10 shall be deposited in the miscellaneous receipts account in the
11 Treasury.

12 TITLE III—ALEUTIAN AND PRIBILOF ISLANDS

13 RESTITUTION

14 SHORT TITLE

15 SEC. 301. This title may be cited as the “Aleutian and
16 Pribilof Islands Restitution Act”.

17 DEFINITIONS

18 SEC. 302. As used in this title, the term—

19 (1) “Administrator” means the person designated
20 under the terms of this title to administer certain ex-
21 penditures made by the Secretary from the Aleutian
22 and Pribilof Islands Restitution Fund;

23 (2) “affected Aleut villages” means those Aleut
24 villages in Alaska whose residents were evacuated by
25 United States forces during World War II, including
26 Akutan, Atka, Nikolski, Saint George, Saint Paul, and

1 Unalaska; and the Aleut village of Attu, Alaska, which
2 was not rehabilitated by the United States for Aleut
3 residence or other use after World War II;

4 (3) “Aleutian Housing Authority” means the non-
5 profit regional native housing authority established for
6 the Aleut region pursuant to AS 18.55.995 and the
7 following of the laws of the State of Alaska;

8 (4) “Association” means the Aleutian/Pribilof Is-
9 lands Association, a nonprofit regional corporation es-
10 tablished for the benefit of the Aleut people and orga-
11 nized under the laws of the State of Alaska;

12 (5) “Corporation” means the Aleut Corporation, a
13 for-profit regional corporation for the Aleut region or-
14 ganized under the laws of the State of Alaska and es-
15 tablished pursuant to section 7 of the Alaska Native
16 Claims Settlement Act (Public Law 92-203);

17 (6) “eligible Aleut” means any Aleut living on the
18 date of enactment of this Act who was a resident of
19 Attu Island on June 7, 1942, or any Aleut living on
20 the date of enactment of this Act who, as a civilian,
21 was relocated by authority of the United States from
22 his home village on the Pribilof Islands or the Aleutian
23 Islands west of Unimak Island to an internment camp,
24 or other temporary facility or location, during World
25 War II; and

1 (7) "Secretary" means the Secretary of the
2 Treasury.

3 ALEUTIAN AND PRIBILOF ISLANDS RESTITUTION FUND

4 SEC. 303. (a) ESTABLISHMENT.—There is established
5 in the Treasury of the United States a Fund to be known as
6 the Aleutian and Pribilof Islands Restitution Fund (herein-
7 after referred to as the "Fund"). The Fund shall consist of
8 amounts appropriated to it, as authorized by sections 306 and
9 307 of this title.

10 (b) REPORT.—It shall be the duty of the Secretary to
11 hold the Fund, and to report to the Congress each year on
12 the financial condition and the results of operations of such
13 Fund during the preceding fiscal year and on its expected
14 condition and operations during the next fiscal year. Such
15 report shall be printed as a House document of the session of
16 Congress to which the report is made.

17 (c) INVESTMENT.—It shall be the duty of the Secretary
18 to invest such portion of the Fund as is not, in his judgment,
19 required to meet current withdrawals. Such investments may
20 be made only in interest-bearing obligations of the United
21 States. For such purpose, such obligations may be ac-
22 quired—

- 23 (1) on original issue at the issue price, or
24 (2) by purchase of outstanding obligations at the
25 market price.

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

4 (e) INTEREST ON CERTAIN PROCEEDS.—The interest
5 on, and the proceeds from the sale or redemption of, any
6 obligations held in the Fund shall be credited to and form a
7 part of the Fund.

8 (f) TERMINATION.—The Secretary shall terminate the
9 Fund six years after the date of enactment of this Act, or one
10 year after the completion of all restoration work pursuant to
11 section 306(c) of this title, whichever occurs later. On the
12 date the Fund is terminated, all investments shall be liquidat-
13 ed by the Secretary and receipts thereof deposited in the
14 Fund and all funds remaining in the Fund shall be deposited
15 in the miscellaneous receipts account in the Treasury.

16 EXPENDITURES AND AUDIT

17 SEC. 304. (a) EXPENDITURES.—As provided by appro-
18 priation Acts, the Secretary is authorized and directed to pay
19 to the Administrator from the principal, interest, and earn-
20 ings of the Fund, such sums as are necessary to carry out the
21 duties of the Administrator under this title.

22 (b) AUDIT.—The activities of the Administrator under
23 this title may be audited by the General Accounting Office
24 under such rules and regulations as may be prescribed by the
25 Comptroller General of the United States. The representa-
26 tives of the General Accounting Office shall have access to

1 all books, accounts, records, reports, and files and all other
2 papers, things, or property belonging to or in use by the Ad-
3 ministrator, pertaining to such activities and necessary to fa-
4 cilitate the audit.

5 ADMINISTRATION OF CERTAIN FUND EXPENDITURES

6 SEC. 305. (a) DESIGNATION OF ADMINISTRATOR.—

7 The Association is hereby designated as Administrator, sub-
8 ject to the terms and conditions of this title, of certain speci-
9 fied expenditures made by the Secretary from the Fund. As
10 soon as practicable after the date of enactment of this Act the
11 Secretary shall offer to undertake negotiations with the Asso-
12 ciation, leading to the execution of a binding agreement with
13 the Association setting forth its duties as Administrator under
14 the terms of this title. The Secretary shall make a good-faith
15 effort to conclude such negotiations and execute such agree-
16 ment within sixty days after the date of enactment of this
17 Act. Such agreement shall be approved by a majority of the
18 Board of Directors of the Association, and shall include, but
19 need not be limited to—

20 (1) a detailed statement of the procedures to be
21 employed by the Association in discharging each of its
22 responsibilities as Administrator under this title;

23 (2) a requirement that the accounts of the Asso-
24 ciation, as they relate to its capacity as Administrator,
25 shall be audited annually in accordance with generally

1 accepted auditing standards by independent certified
2 public accountants or independent licensed public ac-
3 countants; and a further requirement that each such
4 audit report shall be transmitted to the Secretary and
5 to the Committees on the Judiciary of the Senate and
6 House of Representatives; and

7 (3) a provision establishing the conditions under
8 which the Secretary, upon thirty days notice, may ter-
9 minate the Association's designation as Administrator
10 for breach of fiduciary duty, failure to comply with the
11 provisions of this Act as they relate to the duties of the
12 Administrator, or any other significant failure to meet
13 its responsibilities as Administrator under this title.

14 (b) SUBMISSION TO CONGRESS.—The Secretary shall
15 submit the agreement described in subsection (a) to Congress
16 within fifteen days after approval by the parties thereto. If
17 the Secretary and the Association fail to reach agreement
18 within the period provided in subsection (a), the Secretary
19 shall report such failure to Congress within seventy-five days
20 after the date of enactment of this Act, together with the
21 reasons therefor.

22 (c) LIMITATION ON EXPENDITURES.—No expenditure
23 may be made by the Secretary to the Administrator from the
24 Fund until sixty days after submission to Congress of the
25 agreement described in subsection (a).

DUTIES OF THE ADMINISTRATOR

1 SEC. 306. (a) IN GENERAL.—Out of payments from the
2 Fund made to the Administrator by the Secretary, the Ad-
3 ministrator shall make restitution, as provided by this section,
4 for certain Aleut losses sustained in World War II, and shall
5 take such other action as may be required by this title.

6 (b) TRUST ESTABLISHED.—(1) The Administrator shall
7 establish a trust of \$5,000,000 for the benefit of affected
8 Aleut communities, and for other purposes. Such trust shall
9 be established pursuant to the laws of the State of Alaska,
10 and shall be maintained and operated by not more than seven
11 trustees, as designated by the Administrator. Each affected
12 Aleut village, including the survivors of the Aleut village of
13 Attu, may submit to the Administrator a list of three pro-
14 spective trustees. In designating trustees pursuant to this
15 subsection, the Administrator shall designate one trustee
16 from each such list submitted.

17 (2) The trustees shall maintain and operate the trust as
18 eight independent and separate accounts, including—

19 (A) one account for the independent benefit of the
20 wartime Aleut residents of Attu and their descendants;

21 (B) six accounts, each one of which shall be for
22 the independent benefit of one of the six surviving af-
23 fected Aleut villages of Atka, Akutan, Nikolski, Saint
24 George, Saint Paul, and Unalaska; and
25

1 (C) one account for the independent benefit of
2 those Aleuts who, as determined by the trustees, are
3 deserving but will not benefit directly from the ac-
4 counts established pursuant to subparagraphs (A) and
5 (B).

6 The trustees shall credit to the account described in subpara-
7 graph (C), an amount equal to five per centum of the princi-
8 pal amount credited by the Administrator to the trust. The
9 remaining principal amount shall be divided among the ac-
10 counts described in subparagraphs (A) and (B), in proportion
11 to the June 1, 1942, Aleut civilian population of the village
12 for which each such account is established, as compared to
13 the total civilian Aleut population on such date of all affected
14 Aleut villages.

15 (3) The trust established by this subsection shall be ad-
16 ministered in a manner that is consistent with the laws of the
17 State of Alaska, and as prescribed by the Administrator, after
18 consultation with representative eligible Aleuts, the residents
19 of affected Aleut villages, and the Secretary. The trustees
20 may use the accrued interest, and other earnings of the trust
21 for—

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

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

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

3 (D) the improvement of community centers in af-
4 fected Aleut villages; and

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

7 (4) There are authorized to be appropriated \$5,000,000
8 to the Fund to carry out the purposes of this subsection.

9 (c) RESTORATION OF CHURCH PROPERTY.—(1) The
10 Administrator is authorized to rebuild, restore or replace
11 churches and church property damaged or destroyed in af-
12 fected Aleut villages during World War II. Within fifteen
13 days after the date that expenditures from the Fund are au-
14 thorized by this title, the Secretary shall pay \$100,000 to the
15 Administrator for the purpose of making an inventory and
16 assessment, as complete as may be possible under the cir-
17 cumstances, of all churches and church property damaged or
18 destroyed in affected Aleut villages during World War II. In
19 making such inventory and assessment, the Administrator
20 shall consult with the trustees of the trust established by sec-
21 tion 306(b) of this title and shall take into consideration,
22 among other things, the present replacement value of such
23 damaged or destroyed structures, furnishings, and artifacts.
24 Within one year after the date of enactment of this Act, the
25 Administrator shall submit such inventory and assessment,

1 together with specific recommendations and detailed plans for
2 reconstruction, restoration and replacement work to be per-
3 formed, to a review panel composed of—

4 (A) the Secretary of Housing and Urban Develop-
5 ment;

6 (B) the Chairman of the National Endowment for
7 the Arts; and

8 (C) the Administrator of the General Services
9 Administration.

10 (2) If the Administrator's plans and recommendations or
11 any portion of them are not disapproved by the review panel
12 within sixty days, such plans and recommendations as are not
13 disapproved shall be implemented as soon as practicable by
14 the Administrator. If any portion of the Administrator's plans
15 and recommendations is disapproved, such portion shall be
16 revised and resubmitted to the review panel as soon as prac-
17 ticable after notice of disapproval, and the reasons therefor,
18 have been received by the Administrator. In any case of ir-
19 reconcilable differences between the Administrator and the
20 review panel with respect to any specific portion of the plans
21 and recommendations for work to be performed under this
22 subsection, the Secretary shall submit such specific portion of
23 such plans and recommendations to the Congress for
24 approval or disapproval by joint resolution.

1 (3) In contracting for any necessary construction work
 2 to be performed on churches or church property under this
 3 subsection, the Administrator shall give preference to the
 4 Aleutian Housing Authority as general contractor. For pur-
 5 poses of this subsection, "churches or church property" shall
 6 be deemed to be "public facilities" as described in AS
 7 18.55.996(b) of the laws of the State of Alaska.

8 (4) There are authorized to be appropriated to the Fund
 9 \$1,399,000 to carry out the purposes of this subsection.

10 (d) ADMINISTRATIVE AND LEGAL EXPENSES.—The
 11 Administrator is authorized to incur reasonable and necessary
 12 administrative and legal expenses in carrying out its respon-
 13 sibilities under this title. There are authorized to be appropri-
 14 ated to the Fund such sums as may be necessary for the
 15 Secretary to compensate the Administrator, not less often
 16 than quarterly, for all such reasonable and necessary admin-
 17 istrative and legal expenses.

18 INDIVIDUAL COMPENSATION OF ELIGIBLE ALEUTS

19 SEC. 307. (a) PAYMENTS TO ELIGIBLE ALEUTS.—(1)
 20 In accordance with the provisions of this section, the Secre-
 21 tary shall make per capita payments out of the Fund to eligi-
 22 ble Aleuts for uncompensated personal property losses, and
 23 for other purposes. The Secretary shall pay to each eligible
 24 Aleut the sum of \$12,000. All payments to eligible Aleuts

1 shall be made within one year after the date of enactment of
 2 this Act.

3 (2) The Secretary may request, and upon such request,
 4 the Attorney General shall provide, reasonable assistance in
 5 locating eligible Aleuts residing outside the affected Aleut
 6 villages. In providing such assistance, the Attorney General
 7 may use available facilities and resources of the International
 8 Committee of the Red Cross and other organizations.

9 (3) The Administrator shall assist the Secretary in iden-
 10 tifying and locating eligible Aleuts pursuant to this section.

11 (4) Any payment made under this subsection shall not
 12 be considered income or receipts for purposes of any Federal
 13 taxes or for purposes of determining the eligibility for or the
 14 amount of any benefits or assistance provided under any Fed-
 15 eral program or under any State or local program financed in
 16 whole or part with Federal funds.

17 (b) AUTHORIZATION.—There are authorized to be ap-
 18 propriated to the Fund such sums as are necessary to carry
 19 out the purposes of this section.

20 SUPPLEMENTAL CLEANUP OF WARTIME DEBRIS

21 SEC. 308. (a) The Congress finds that the Department
 22 of Defense has implemented an ongoing program for the re-
 23 moval and disposal of live ammunition, obsolete buildings,
 24 abandoned machinery, and other hazardous debris remaining
 25 in populated areas of the lower Alaska Peninsula and the
 26 Aleutian Islands as a result of military activities during

1 World War II. Such program is being accomplished pursuant
 2 to Acts making Appropriations for the Department of De-
 3 fense, in accordance with congressional statements of pur-
 4 pose in establishing and funding the Environmental Restora-
 5 tion Defense Account. The authority contained in this section
 6 shall be supplemental to the authority of the Secretary of
 7 Defense in administering the Environmental Restoration De-
 8 fense Account, and shall be exercised only in the event that
 9 such account is inadequate to eliminate hazardous military
 10 debris from populated areas of the Lower Alaska Peninsula
 11 and the Aleutian Islands.

12 (b) CLEANUP PROGRAM.—Subject to the terms and
 13 conditions of subsection (a), the Secretary of the Army,
 14 acting through the Chief of Engineers, is authorized and di-
 15 rected to plan and implement a program, as the Chief of En-
 16 gineers may deem feasible and appropriate, for the removal
 17 and disposal of live ammunition, obsolete buildings, aban-
 18 doned machinery, and other hazardous debris remaining in
 19 populated areas of the lower Alaska Peninsula and the Aleu-
 20 tian Islands as a result of military construction and other
 21 activities during World War II. The Congress finds that such
 22 a program is essential for the further development of safe,
 23 sanitary housing conditions, public facilities, and public utili-
 24 ties within the region.

1 (c) ADMINISTRATION OF PROGRAM.—The debris re-
 2 moval program authorized under subsection (a) shall be car-
 3 ried out substantially in accordance with the recommenda-
 4 tions for a minimum cleanup contained in the report prepared
 5 by the Alaska district, Corps of Engineers, entitled “Debris
 6 Removal and Cleanup Study: Aleutian Islands and Lower
 7 Alaska Peninsula, Alaska”, dated October 1976. In carrying
 8 out the program required by this section, the Chief of Engi-
 9 neers shall consult with the trustees of the trust established
 10 by section 7(b) of this Act, and shall give preference to the
 11 Aleutian Housing Authority as general contractor.

12 (d) AUTHORIZATION.—There are authorized to be ap-
 13 propriated \$15,000,000 to carry out the purposes of this
 14 section.

15 ATTU ISLAND RESTITUTION PROGRAM

16 SEC. 309. (a) In accordance with subsection (3) of the
 17 Wilderness Act (78 Stat. 892), the public lands on Attu
 18 Island, Alaska within the National Wildlife Refuge System
 19 are designated as wilderness by section 702(1) of the Alaska
 20 National Interest Lands Conservation Act (94 Stat. 2417).
 21 In order to make restitution for the loss of traditional Aleut
 22 lands and village properties on Attu Island, while preserving
 23 the present designation of Attu Island lands as part of the
 24 National Wilderness Preservation System, compensation to
 25 the Aleut people in lieu of Attu Island conveyance shall be
 26 provided in accordance with this section.

1 (b) The Secretary of the Treasury shall establish an ac-
 2 count designated "The Aleut Corporation Property Ac-
 3 count", which shall be available for the purpose of bidding on
 4 Federal surplus property. The initial balance of the account
 5 shall be \$17,868,500, which reflects an entitlement of \$500
 6 for each of the thirty-five thousand seven hundred and thirty-
 7 seven acres within that part of eastern Attu Island tradition-
 8 ally occupied and used by the Aleut people for subsistence
 9 hunting and fishing. The balance of the account shall be
 10 adjusted as necessary to reflect successful bids under subsec-
 11 tion (c) or other conveyances of property under subsections (f)
 12 and (g).

13 (c) The Corporation may, by using the account estab-
 14 lished in subsection (b) bid, as any other bidder for surplus
 15 property, wherever located, in accordance with the require-
 16 ments of section 484 of title 40, United States Code. No
 17 preference right of any type will be offered to the Corpora-
 18 tion for bidding for General Services Administration surplus
 19 property under this subsection and no additional advertising
 20 shall be required other than that prescribed in section
 21 484(e)(2) of title 40, United States Code.

22 (d) The amount charged against the Treasury account
 23 established under subsection (b) shall be treated as proceeds
 24 of dispositions of surplus property for the purpose of deter-
 25 mining the basis for calculating direct expenses pursuant to
 26 section 485(b) of title 40, United States Code.

1 (e) The basis for computing gain or loss on subsequent
 2 sale or other disposition of property conveyed to the Corpora-
 3 tion under this section for purposes of any Federal, State or
 4 local tax imposed on or measured by income, shall be the fair
 5 value of such property at the time of receipt. The amount
 6 charged against the Treasury account established under sub-
 7 section (b) shall be prima facie evidence of such fair value.

8 (f) The Administrator of General Services may, at the
 9 discretion of the Administrator, tender to the Secretary of the
 10 Treasury any surplus property otherwise to be disposed of
 11 pursuant to section 484(e)(3) of title 40, United States Code,
 12 to be offered to the Corporation for a period of ninety days so
 13 as to aid in the fulfillment of the Secretary of the Treasury's
 14 obligations for restitution to the Aleut people under this sec-
 15 tion: *Provided*, That prior to any disposition under this sub-
 16 section or subsection (g), the Administrator shall notify the
 17 governing body of the locality where such property is located
 18 and any appropriate state agency, and no such disposition
 19 shall be made if such governing body or State agency within
 20 ninety days of such notification formally advises the Adminis-
 21 trator that it objects to the proposed disposition.

22 (g)(1) Notwithstanding any provision of any other law or
 23 any implementing regulation inconsistent with this subsec-
 24 tion, concurrently with the commencement of screening of
 25 any excess real property, wherever located, for utilization by

1 Federal agencies, the Administrator of General Services shall
 2 notify the Corporation that such property may be available
 3 for conveyance to the Corporation upon negotiated sale.
 4 Within fifteen days of the date of receipt of such notice, the
 5 Corporation may advise the Administrator that there is a ten-
 6 tative need for the property to fulfill the obligations estab-
 7 lished under this section. If the Administrator determines the
 8 property should be disposed of by transfer to the Corporation,
 9 the Administrator or other appropriate Federal official shall
 10 promptly transfer such property.

11 (2) No disposition or conveyance of property under this
 12 subsection to the Corporation shall be made until the Admin-
 13 istrator of General Services, after notice to affected State and
 14 local governments, has provided to them such opportunity to
 15 obtain the property as is recognized in title 40, United States
 16 Code and the regulations thereunder for the disposition or
 17 conveyance of surplus property.

18 (3) As used in this subsection, "real property" means
 19 any land or interests in land owned or held by the United
 20 States or any Federal agency, any improvements on such
 21 land or rights to their use or exploitation, and any personal
 22 property related to the land.

23 (h) The Secretary of the Interior may convey to the
 24 Corporation the traditional Aleut village site on Attu Island,
 25 Alaska pursuant to the authority contained in section

1 1613(h)(1) of title 43, United States Code: *Provided*, That
 2 following the date of enactment of this section, no site on
 3 Attu Island, Alaska other than such traditional Aleut village
 4 site shall be conveyed to the Corporation pursuant to such
 5 section 1613(h)(1) of title 43, United States Code.

6 SEPARABILITY OF PROVISIONS

7 SEC. 310. If any provision of this title, or the applica-
 8 tion of such provision to any person or circumstances, shall
 9 be held invalid, the remainder of this title or the application
 10 of such provision to persons or circumstances other than
 11 those as to which it is held invalid, shall not be affected
 12 thereby.

○

1 (1) to recognize and redress the injustices and vio-
 2 lations of civil liberties during World War II against
 3 United States residents of Japanese, Aleut, and other
 4 ancestry by the United States;

5 (2) to discourage similar injustices and violations
 6 of civil liberties in the future; and

7 (3) to make more credible and sincere any decla-
 8 rations of concern by the United States over violations
 9 of human rights committed by other nations.

10 DEFINITION OF ELIGIBLE INDIVIDUALS

11 SEC. 3. For purposes of this Act, the term "eligible in-
 12 dividual" means—

13 (1) an individual of Japanese or Alaskan Aleut
 14 ancestry enrolled on the records of the United States
 15 Government during the period beginning on December
 16 7, 1941, and ending on December 17, 1944, as being
 17 in a prohibited military zone; or

18 (2) who was confined, held in custody, or other-
 19 wise deprived of liberty or property during the period
 20 as a result of Executive Order 9066, issued February
 21 19, 1942; Public Law 503, enacted March 21, 1942;
 22 or as a result of any other Executive order, Presiden-
 23 tial proclamation, law, directive of the Armed Forces
 24 of the United States, or other action made by or on
 25 behalf of the United States or its agents, representa-

1 tives, officers, or employees respecting the exclusion,
 2 relocation and/or detention of individuals on the basis
 3 of race.

4 PAYMENTS

5 SEC. 4. (a) The Attorney General shall locate each eli-
 6 gible individual and shall pay to each such individual an ap-
 7 propriate sum the amount of which will be decided by the
 8 committees of appropriate jurisdiction upon review of the rec-
 9 ommendations for redress of the Commission on Wartime Re-
 10 location and Internment of Civilians. All payments to eligible
 11 individuals shall be made within three years after the date of
 12 enactment of this Act.

13 (b) In locating eligible individuals residing outside the
 14 United States, the Attorney General may use available facili-
 15 ties and resources of the International Committee of the Red
 16 Cross and other organizations.

17 (c) Payment shall be made under this section without
 18 regard to the present residence or citizenship of any eligible
 19 individual or other person.

20 (d) Any payment made under this section shall not be
 21 considered income or receipts for purposes of any Federal
 22 taxes or for purposes of determining the eligibility for or the
 23 amount of any benefits or assistance provided under any Fed-
 24 eral program or under any State or local program financed in
 25 whole or part with Federal funds.

1 (e) If an eligible individual is deceased, cannot be locat-
 2 ed within a reasonable period of time, or refuses or is unable
 3 to accept such payment, then the sum for which said individ-
 4 ual was eligible shall be paid to a trust fund established by
 5 the Attorney General in accordance with subsection (f).

6 (f)(1) There is established in the Treasury of the United
 7 States a trust fund to be known as the "World War II Civil
 8 Liberties Redress Trust Fund" (hereinafter in this Act re-
 9 ferred to as the "Fund") which shall be the depository of
 10 funds paid pursuant to subsection (e). The Fund shall be dis-
 11 tributed for the benefit of communities within the United
 12 States populated by eligible individuals or their descendants
 13 for the purpose of providing or assisting community services,
 14 including education, health, housing, cultural, and related
 15 services.

16 (2) The Attorney General shall promulgate regulations
 17 establishing a board of trustees for the Fund. The board of
 18 trustees shall have the responsibility of administering and dis-
 19 tributing the fund. The trustees shall be appointed by the
 20 President, by and with the advice and consent of the Senate.
 21 At least half of the trustees shall be eligible individuals or
 22 their descendants.

1 AUTHORIZATION OF APPROPRIATIONS

2 SEC. 5. There are authorized to be appropriated for the
 3 fiscal years 1984, 1985, and 1986 such sums as may be nec-
 4 essary to carry out this Act.

○

1 scribe the circumstances of the exclusion, relocation,
2 and internment of in excess of one hundred and ten
3 thousand United States citizens and permanent resident
4 aliens of Japanese ancestry and the treatment of the
5 individuals of Aleut ancestry who were removed from
6 the Aleutian and the Pribilof Islands;

7 (2) the internment of individuals of Japanese an-
8 cestry was carried out without any documented acts of
9 espionage or sabotage, or other acts of disloyalty by
10 any citizens or permanent resident aliens of Japanese
11 ancestry on the west coast;

12 (3) there was no military or security reason for
13 the internment;

14 (4) the internment of the individuals of Japanese
15 ancestry was caused by racial prejudice, war hysteria,
16 and a failure of political leadership;

17 (5) the excluded individuals of Japanese ancestry
18 suffered enormous damages and losses, both material
19 and intangible, and there were incalculable losses in
20 education and job training, all of which resulted in sig-
21 nificant human suffering;

22 (6) the basic civil liberties and constitutional rights
23 of those individuals of Japanese ancestry interned were
24 fundamentally violated by that evacuation and
25 internment;

1 (7) as documented in the Commission's reports,
2 the Aleut civilian residents of the Pribilof Islands and
3 the Aleutian Islands west of Unimak Island were relo-
4 cated during World War II to temporary camps in iso-
5 lated regions of southeastern Alaska where they re-
6 mained, under United States control and in the care of
7 the United States, until long after any potential danger
8 to their home villages had passed;

9 (8) the United States failed to provide reasonable
10 care for the Aleuts, and this resulted in widespread ill-
11 ness, disease, and death among the residents of the
12 camps; and the United States further failed to protect
13 Aleut personal and community property while such
14 property was in its possession or under its control;

15 (9) the United States has not compensated the
16 Aleuts adequately for the conversion or destruction of
17 personal property and the conversion or destruction of
18 community property caused by United States military
19 occupation of Aleut villages during World War II;

20 (10) the United States has not removed certain
21 abandoned military equipment and structures from in-
22 habited Aleutian Islands following World War II, thus
23 creating conditions which constitute potential hazards
24 to the health and welfare of the residents of the
25 islands;

1 (11) the United States has not rehabilitated Attu
2 village, thus precluding the development of Attu Island
3 for the benefit of the Aleut people and impairing the
4 preservation of traditional Aleut property on the island;
5 and

6 (12) there is no remedy for injustices suffered by
7 the Aleuts during World War II except an Act of Con-
8 gress providing appropriate compensation for those
9 losses which are attributable to the conduct of United
10 States forces and other officials and employees of the
11 United States.

12 (b) PURPOSES.—The purposes of this Act are to—

13 (1) acknowledge the fundamental injustice of the
14 evacuation, relocation, and internment of United States
15 citizens and permanent resident aliens of Japanese
16 ancestry;

17 (2) apologize on behalf of the people of the United
18 States for the evacuation, relocation, and internment of
19 the citizens and permanent resident aliens of Japanese
20 ancestry;

21 (3) provide for a public education fund to finance
22 efforts to inform the public about the internment of
23 such individuals so as to prevent the reoccurrence of
24 any similar event;

1 (4) make restitution to those individuals of Japa-
2 nese ancestry who were interned;

3 (5) make restitution to Aleut residents of the Pri-
4 bilof Islands and the Aleutian Islands west of Unimak
5 Island, in settlement of United States obligations in
6 equity and at law, for—

7 (A) injustices suffered and unreasonable hard-
8 ships endured while under United States control
9 during World War II;

10 (B) personal property taken or destroyed by
11 United States forces during World War II;

12 (C) community property, including communi-
13 ty church property, taken or destroyed by United
14 States forces during World War II; and

15 (D) traditional village lands on Attu Island
16 not rehabilitated after World War II for Aleut oc-
17 cupation or other productive use.

18 TITLE I—RECOGNITION OF INJUSTICE AND
19 APOLOGY ON BEHALF OF THE NATION

20 SEC. 101. The Congress accepts the findings of the
21 Commission on Wartime Relocation and Internment of Civil-
22 ians and recognizes that a grave injustice was done to both
23 citizens and resident aliens of Japanese ancestry by the evac-
24 uation, relocation, and internment of civilians during World
25 War II. On behalf of the Nation, the Congress apologizes.

1 TITLE II—UNITED STATES CITIZENS OF JAPA-
2 NESE ANCESTRY AND RESIDENT JAPANESE
3 ALIENS

4 DEFINITIONS

5 SEC. 201. For the purposes of this title—

6 (1) the term “eligible individual” means any living
7 individual of Japanese ancestry who—

8 (A) was enrolled on the records of the United
9 States Government during the period beginning
10 on December 7, 1941, and ending on June 30,
11 1946, as being in a prohibited military zone; or

12 (B) was confined, held in custody, or other-
13 wise deprived of liberty or property during the
14 period as a result of—

15 (i) Executive Order numbered 9066
16 (February 19, 1942, 7 Fed. Reg. 1407);

17 (ii) the Act entitled “An Act to provide
18 a penalty for violation of restrictions or
19 orders with respect to persons entering, re-
20 maining in, leaving, or committing any act in
21 military areas or zones” and approved March
22 21, 1942 (56 Stat. 173); or

23 (iii) any other Executive order, Presi-
24 dential proclamation, law of the United
25 States, directive of the Armed Forces of the

1 United States, or other action made by or on
2 behalf of the United States or its agents,
3 representatives, officers, or employees re-
4 specting the exclusion, relocation, or deten-
5 tion of individuals on the basis of race;

6 (2) the term “Fund” means the Civil Liberties
7 Public Education Fund established in section 204;

8 (3) the term “Board” means the Civil Liberties
9 Public Education Fund Board of Directors established
10 in section 206;

11 (4) the term “evacuation, relocation, and intern-
12 ment period” means that period beginning on Decem-
13 ber 7, 1941, and ending on June 30, 1946; and

14 (5) the term “Commission” means the Commis-
15 sion on Wartime Relocation and Internment of Civil-
16 ians, established by the Commission on Wartime Relo-
17 cation and Internment of Civilians Act.

18 CRIMINAL CONVICTIONS

19 SEC. 202. (a) REVIEW.—The Attorney General shall
20 review all cases in which United States citizens and perma-
21 nent resident aliens of Japanese ancestry were convicted of
22 violations of laws of the United States, including convictions
23 for violations of military orders, where such convictions re-
24 sulted from charges filed against such individuals during the
25 evacuation, relocation, and internment period.

1 (b) RECOMMENDATIONS.—Based upon the review re-
 2 quired by subsection (a), the Attorney General shall recom-
 3 mend to the President for pardon consideration those convic-
 4 tions which the Attorney General finds were based on a re-
 5 fusual by such individuals to accept treatment that discrimi-
 6 nated against them on the basis of race or ethnicity.

7 (c) PARDONS.—In consideration of the findings con-
 8 tained in this Act, the President is requested to offer pardons
 9 to those individuals recommended by the Attorney General
 10 pursuant to subsection (b).

11 CONSIDERATION OF COMMISSION FINDINGS

12 SEC. 203. Departments and agencies of the United
 13 States Government to which eligible individuals may apply
 14 for the restitution of positions, status or entitlements lost in
 15 whole or in part because of discriminatory acts of the United
 16 States Government against such individuals based upon their
 17 race or ethnicity and which occurred during the evacuation,
 18 relocation, and internment period shall review such applica-
 19 tions for restitution of positions, status or entitlements with
 20 liberality, giving full consideration to the historical findings of
 21 the Commission and the findings contained in this Act.

22 TRUST FUND

23 SEC. 204. (a) ESTABLISHMENT.—There is hereby es-
 24 tablished in the Treasury of the United States the Civil Lib-
 25 erties Public Education Fund, to be administered by the Sec-

1 retary of the Treasury. Amounts in the Fund shall be invest-
 2 ed in accordance with section 9702 of title 31, United States
 3 Code, and shall only be available for disbursement by the
 4 Attorney General under section 205, and by the Board of
 5 Directors of the Fund under section 206.

6 (b) AUTHORIZATION.—There are authorized to be ap-
 7 propriated to the Fund \$1,500,000,000.

8 RESTITUTION

9 SEC. 205. (a) LOCATION OF ELIGIBLE INDIVIDUALS.—
 10 (1) The Attorney General, with the assistance of the Board,
 11 shall locate, using records already in the possession of the
 12 United States Government, each eligible individual and shall
 13 pay out of the Fund to each such individual the sum of
 14 \$20,000. The Attorney General shall encourage each eligible
 15 individual to submit his or her current address to the Depart-
 16 ment of Justice through a public awareness campaign.

17 (2) If an eligible individual refuses to accept any pay-
 18 ment under this section, such amount shall remain in the
 19 Fund and no payment shall be made under this section to
 20 such individual at any future date.

21 (b) PREFERENCE TO OLDEST.—The Attorney General
 22 shall endeavor to make payment to eligible individuals who
 23 are living in the order of date of birth (with the oldest receiv-
 24 ing full payment first), until all eligible individuals who are
 25 living have received payment in full.

1 (c) NONRESIDENTS.—In attempting to locate any eligi-
2 ble individual who resides outside the United States, the At-
3 torney General may use any available facility or resource of
4 any public or nonprofit organization.

5 (d) NO SET OFF FOR ADMINISTRATIVE COSTS.—No
6 costs incurred by the Attorney General in carrying out this
7 section shall be paid from the Fund or set off against, or
8 otherwise deducted from, any payment under this section to
9 any eligible individual.

10 BOARD OF DIRECTORS

11 SEC. 206. (a) ESTABLISHMENT.—There is hereby es-
12 tablished the Civil Liberties Public Education Fund Board of
13 Directors which shall be responsible for making disburse-
14 ments from the Fund in the manner provided in this section.

15 (b) DISBURSEMENTS FROM FUND.—The Board of Di-
16 rectors may make disbursements from the Fund only—

17 (1) to sponsor research and public educational ac-
18 tivities so that the events surrounding the relocation
19 and internment of United States citizens and perma-
20 nent resident aliens of Japanese ancestry will be re-
21 membered, and so that the causes and circumstances of
22 this and similar events may be illuminated and
23 understood;

24 (2) to fund comparative studies of similar civil lib-
25 erties abuses, or to fund comparative studies of the

1 effect upon particular groups of racial prejudice em-
2 bodied by Government action in times of national
3 stress;

4 (3) to prepare and distribute the hearings and
5 findings of the Commission to textbook publishers, edu-
6 cators, and libraries;

7 (4) for the general welfare of the ethnic Japanese
8 community in the United States, taking into considera-
9 tion the effect of the exclusion and detention on the de-
10 scendants of those individuals who were detained
11 during the evacuation, relocation, and internment
12 period (individual payments in compensation for loss or
13 damages shall not be made under this paragraph); and

14 (5) for reasonable administrative expenses, includ-
15 ing expenses incurred under subsections (c) (3), (d), and
16 (e).

17 (c) MEMBERSHIP AND TERMS OF OFFICE.—(1) The
18 Board shall be composed of nine members appointed by the
19 President, by and with the advice and consent of the Senate,
20 from persons who are not officers or employees of the United
21 States Government. At least five of the individuals appointed
22 shall be individuals who are of Japanese ancestry.

23 (2)(A) Except as provided in subparagraphs (B) and (C),
24 members shall be appointed for terms of three years.

25 (B) Of the members first appointed—

1 (i) five shall be appointed for terms of three years;

2 and

3 (ii) four shall be appointed for terms of two years;

4 as designated by the President at the time of appoint-

5 ment.

6 (C) Any member appointed to fill a vacancy occurring
7 before the expiration of the term for which his predecessor
8 was appointed shall be appointed only for the remainder of
9 such term. A member may serve after the expiration of his
10 term until his successor has taken office. No individual may
11 be appointed to more than two consecutive terms.

12 (3) Members of the Board shall serve without pay,
13 except members of the Board shall be entitled to reimburse-
14 ment for travel, subsistence, and other necessary expenses
15 incurred by them in carrying out the functions of the Board,
16 in the same manner as persons employed intermittently in the
17 United States Government are allowed expenses under sec-
18 tion 5703 of title 5, United States Code.

19 (4) Five members of the Board shall constitute a quorum
20 but a lesser number may hold hearings.

21 (5) The Chair of the Board shall be elected by the mem-
22 bers of the Board.

23 (d)(1) The Board shall have a Director who shall be ap-
24 pointed by the Board and who shall be paid at a rate not to
25 exceed the minimum rate of basic pay payable for GS-18 of

1 the General Schedule under section 5332(a) of title 5, United
2 States Code.

3 (2) The Board may appoint and fix the pay of such addi-
4 tional staff personnel as it may require.

5 (3) The Director and the additional staff personnel of the
6 Board may be appointed without regard to section 5311(B) of
7 title 5, United States Code and may be appointed without
8 regard to the provisions of such title governing appointments
9 in the competitive service, and may be paid without regard to
10 the provisions of chapter 51 and subchapter III of chapter 53
11 of such title relating to classification and General Schedule
12 pay rates, except that the compensation of any employee of
13 the Board may not exceed a rate equivalent to the rate pay-
14 able under GS-18 of the General Schedule under section
15 5332(a) of such title.

16 (e) SUPPORT SERVICES.—The Administrator of Gener-
17 al Services shall provide to the Board of Directors on a reim-
18 bursable basis such administrative support services as the
19 Board may request.

20 (f) DONATIONS.—The Board may accept, use, and dis-
21 pose of gifts or donations or services or property for purposes
22 authorized under subsection (b).

23 (g) ANNUAL REPORT.—Not later than twelve months
24 after the first meeting of the Board and every twelve months
25 thereafter, the Board shall transmit a report describing the

1 activities of the Board to the President and to each House of
2 the Congress.

3 (h) SUNSET FOR BOARD.—The Board shall terminate
4 not later than the earlier of ninety days after the date on
5 which an amount has been obligated to be expended from the
6 Fund which is equal to the amount authorized to be appropri-
7 ated to the Fund or ten years after the date of enactment of
8 this Act. Investments shall be liquidated and receipts thereof
9 deposited in the Fund and all funds remaining in the Fund
10 shall be deposited in the miscellaneous receipts account in the
11 Treasury.

12 TITLE III—ALEUTIAN AND PRIBILOF ISLANDS

13 RESTITUTION

14 SHORT TITLE

15 SEC. 301. This title may be cited as the “Aleutian and
16 Pribilof Islands Restitution Act”.

17 DEFINITIONS

18 SEC. 302. As used in this title, the term—

19 (1) “Administrator” means the person designated
20 under the terms of this title to administer certain ex-
21 penditures made by the Secretary from the Aleutian
22 and Pribilof Islands Restitution Fund;

23 (2) “affected Aleut villages” means those Aleut
24 villages in Alaska whose residents were evacuated by
25 United States forces during World War II, including

1 Akutan, Atka, Nikolski, Saint George, Saint Paul, and
2 Unalaska; and the Aleut village of Attu, Alaska, which
3 was not rehabilitated by the United States for Aleut
4 residence or other use after World War II;

5 (3) “Aleutian Housing Authority” means the non-
6 profit regional native housing authority established for
7 the Aleut region pursuant to AS 18.55.995 and the
8 following of the laws of the State of Alaska;

9 (4) “Association” means the Aleutian/Pribilof Is-
10 lands Association, a nonprofit regional corporation es-
11 tablished for the benefit of the Aleut people and orga-
12 nized under the laws of the State of Alaska;

13 (5) “Corporation” means the Aleut Corporation, a
14 for-profit regional corporation for the Aleut region or-
15 ganized under the laws of the State of Alaska and es-
16 tablished pursuant to section 7 of the Alaska Native
17 Claims Settlement Act (Public Law 92-203);

18 (6) “eligible Aleut” means any Aleut living on the
19 date of enactment of this Act who was a resident of
20 Attu Island on June 7, 1942, or any Aleut living on
21 the date of enactment of this Act who, as a civilian,
22 was relocated by authority of the United States from
23 his home village on the Pribilof Islands or the Aleutian
24 Islands west of Unimak Island to an internment camp,

1 or other temporary facility or location, during World
2 War II; and

3 (7) "Secretary" means the Secretary of the
4 Treasury.

5 ALEUTIAN AND PRIBILOF ISLANDS RESTITUTION FUND

6 SEC. 303. (a) ESTABLISHMENT.—There is established
7 in the Treasury of the United States a Fund to be known as
8 the Aleutian and Pribilof Islands Restitution Fund (herein-
9 after referred to as the "Fund"). The Fund shall consist of
10 amounts appropriated to it, as authorized by sections 306 and
11 307 of this title.

12 (b) REPORT.—It shall be the duty of the Secretary to
13 hold the Fund, and to report to the Congress each year on
14 the financial condition and the results of operations of such
15 Fund during the preceding fiscal year and on its expected
16 condition and operations during the next fiscal year. Such
17 report shall be printed as a House document of the session of
18 Congress to which the report is made.

19 (c) INVESTMENT.—It shall be the duty of the Secretary
20 to invest such portion of the Fund as is not, in his judgment,
21 required to meet current withdrawals. Such investments may
22 be made only in interest-bearing obligations of the United
23 States. For such purpose, such obligations may be ac-
24 quired—

25 (1) on original issue at the issue price, or

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

3 (d) SALE OF OBLIGATIONS.—Any obligation acquired
4 by the Fund may be sold by the Secretary at the market
5 price.

6 (e) INTEREST ON CERTAIN PROCEEDS.—The interest
7 on, and the proceeds from the sale or redemption of, any
8 obligations held in the Fund shall be credited to and form a
9 part of the Fund.

10 (f) TERMINATION.—The Secretary shall terminate the
11 Fund six years after the date of enactment of this Act, or one
12 year after the completion of all restoration work pursuant to
13 section 306(c) of this title, whichever occurs later. On the
14 date the Fund is terminated, all investments shall be liquidat-
15 ed by the Secretary and receipts thereof deposited in the
16 Fund and all funds remaining in the Fund shall be deposited
17 in the miscellaneous receipts account in the Treasury.

18 EXPENDITURES AND AUDIT

19 SEC. 304. (a) EXPENDITURES.—As provided by appro-
20 priation Acts, the Secretary is authorized and directed to pay
21 to the Administrator from the principal, interest, and earn-
22 ings of the Fund, such sums as are necessary to carry out the
23 duties of the Administrator under this title.

24 (b) AUDIT.—The activities of the Administrator under
25 this title may be audited by the General Accounting Office

1 under such rules and regulations as may be prescribed by the
 2 Comptroller General of the United States. The representa-
 3 tives of the General Accounting Office shall have access to
 4 all books, accounts, records, reports, and files and all other
 5 papers, things, or property belonging to or in use by the Ad-
 6 ministrator, pertaining to such activities and necessary to fa-
 7 cilitate the audit.

8 ADMINISTRATION OF CERTAIN FUND EXPENDITURES

9 SEC. 305. (a) DESIGNATION OF ADMINISTRATOR.—

10 The Association is hereby designated as Administrator, sub-
 11 ject to the terms and conditions of this title, of certain speci-
 12 fied expenditures made by the Secretary from the Fund. As
 13 soon as practicable after the date of enactment of this Act the
 14 Secretary shall offer to undertake negotiations with the Asso-
 15 ciation, leading to the execution of a binding agreement with
 16 the Association setting forth its duties as Administrator under
 17 the terms of this title. The Secretary shall make a good-faith
 18 effort to conclude such negotiations and execute such agree-
 19 ment within sixty days after the date of enactment of this
 20 Act. Such agreement shall be approved by a majority of the
 21 Board of Directors of the Association, and shall include, but
 22 need not be limited to—

23 (1) a detailed statement of the procedures to be
 24 employed by the Association in discharging each of its
 25 responsibilities as Administrator under this title;

1 (2) a requirement that the accounts of the Associ-
 2 ation, as they relate to its capacity as Administrator,
 3 shall be audited annually in accordance with generally
 4 accepted auditing standards by independent certified
 5 public accountants or independent licensed public ac-
 6 countants; and a further requirement that each such
 7 audit report shall be transmitted to the Secretary and
 8 to the Committees on the Judiciary of the Senate and
 9 House of Representatives; and

10 (3) a provision establishing the conditions under
 11 which the Secretary, upon thirty days notice, may ter-
 12 minate the Association's designation as Administrator
 13 for breach of fiduciary duty, failure to comply with the
 14 provisions of this Act as they relate to the duties of the
 15 Administrator, or any other significant failure to meet
 16 its responsibilities as Administrator under this title.

17 (b) SUBMISSION TO CONGRESS.—The Secretary shall
 18 submit the agreement described in subsection (a) to Congress
 19 within fifteen days after approval by the parties thereto. If
 20 the Secretary and the Association fail to reach agreement
 21 within the period provided in subsection (a), the Secretary
 22 shall report such failure to Congress within seventy-five days
 23 after the date of enactment of this Act, together with the
 24 reasons therefor.

1 (c) LIMITATION ON EXPENDITURES.—No expenditure
2 may be made by the Secretary to the Administrator from the
3 Fund until sixty days after submission to Congress of the
4 agreement described in subsection (a).

5 DUTIES OF THE ADMINISTRATOR

6 SEC. 306. (a) IN GENERAL.—Out of payments from the
7 Fund made to the Administrator by the Secretary, the Ad-
8 ministrator shall make restitution, as provided by this section,
9 for certain Aleut losses sustained in World War II, and shall
10 take such other action as may be required by this title.

11 (b) TRUST ESTABLISHED.—(1) The Administrator shall
12 establish a trust of \$5,000,000 for the benefit of affected
13 Aleut communities, and for other purposes. Such trust shall
14 be established pursuant to the laws of the State of Alaska,
15 and shall be maintained and operated by not more than seven
16 trustees, as designated by the Administrator. Each affected
17 Aleut village, including the survivors of the Aleut village of
18 Attu, may submit to the Administrator a list of three pro-
19 spective trustees. In designating trustees pursuant to this
20 subsection, the Administrator shall designate one trustee
21 from each such list submitted.

22 (2) The trustees shall maintain and operate the trust as
23 eight independent and separate accounts, including—

24 (A) one account for the independent benefit of the
25 wartime Aleut residents of Attu and their descendants;

1 (B) six accounts, each one of which shall be for
2 the independent benefit of one of the six surviving af-
3 fected Aleut villages of Atka, Akutan, Nikolski, Saint
4 George, Saint Paul, and Unalaska; and

5 (C) one account for the independent benefit of
6 those Aleuts who, as determined by the trustees, are
7 deserving but will not benefit directly from the ae-
8 counts established pursuant to subparagraphs (A) and
9 (B).

10 The trustees shall credit to the account described in subpara-
11 graph (C), an amount equal to five per centum of the princi-
12 pal amount credited by the Administrator to the trust. The
13 remaining principal amount shall be divided among the ac-
14 counts described in subparagraphs (A) and (B), in proportion
15 to the June 1, 1942, Aleut civilian population of the village
16 for which each such account is established, as compared to
17 the total civilian Aleut population on such date of all affected
18 Aleut villages.

19 (3) The trust established by this subsection shall be ad-
20 ministered in a manner that is consistent with the laws of the
21 State of Alaska, and as prescribed by the Administrator, after
22 consultation with representative eligible Aleuts, the residents
23 of affected Aleut villages, and the Secretary. The trustees
24 may use the accrued interest, and other earnings of the trust
25 for—

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

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

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

7 (D) the improvement of community centers in af-
8 fected Aleut villages; and

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

11 (4) There are authorized to be appropriated \$5,000,000
12 to the Fund to carry out the purposes of this subsection.

13 (c) RESTORATION OF CHURCH PROPERTY.—(1) The
14 Administrator is authorized to rebuild, restore or replace
15 churches and church property damaged or destroyed in af-
16 fected Aleut villages during World War II. Within fifteen
17 days after the date that expenditures from the Fund are au-
18 thorized by this title, the Secretary shall pay \$100,000 to the
19 Administrator for the purpose of making an inventory and
20 assessment, as complete as may be possible under the cir-
21 cumstances, of all churches and church property damaged or
22 destroyed in affected Aleut villages during World War II. In
23 making such inventory and assessment, the Administrator
24 shall consult with the trustees of the trust established by sec-
25 tion 306(b) of this title and shall take into consideration,

1 among other things, the present replacement value of such
2 damaged or destroyed structures, furnishings, and artifacts.

3 Within one year after the date of enactment of this Act, the
4 Administrator shall submit such inventory and assessment,
5 together with specific recommendations and detailed plans for
6 reconstruction, restoration and replacement work to be per-
7 formed, to a review panel composed of—

8 (A) the Secretary of Housing and Urban Develop-
9 ment;

10 (B) the Chairman of the National Endowment for
11 the Arts; and

12 (C) the Administrator of the General Services Ad-
13 ministration.

14 (2) If the Administrator's plans and recommendations or
15 any portion of them are not disapproved by the review panel
16 within sixty days, such plans and recommendations as are not
17 disapproved shall be implemented as soon as practicable by
18 the Administrator. If any portion of the Administrator's plans
19 and recommendations is disapproved, such portion shall be
20 revised and resubmitted to the review panel as soon as prac-
21 ticable after notice of disapproval, and the reasons therefor,
22 have been received by the Administrator. In any case of irre-
23 concilable differences between the Administrator and the
24 review panel with respect to any specific portion of the plans
25 and recommendations for work to be performed under this

1 subsection, the Secretary shall submit such specific portion of
2 such plans and recommendations to the Congress for
3 approval or disapproval by joint resolution.

4 (3) In contracting for any necessary construction work
5 to be performed on churches or church property under this
6 subsection, the Administrator shall give preference to the
7 Aleutian Housing Authority as general contractor. For pur-
8 poses of this subsection, "churches or church property" shall
9 be deemed to be "public facilities" as described in AS
10 18.55.996(b) of the laws of the State of Alaska.

11 (4) There are authorized to be appropriated to the Fund
12 \$1,399,000 to carry out the purposes of this subsection.

13 (d) ADMINISTRATIVE AND LEGAL EXPENSES.—The
14 Administrator is authorized to incur reasonable and necessary
15 administrative and legal expenses in carrying out its respon-
16 sibilities under this title. There are authorized to be appropri-
17 ated to the Fund such sums as may be necessary for the
18 Secretary to compensate the Administrator, not less often
19 than quarterly, for all such reasonable and necessary admin-
20 istrative and legal expenses.

21 INDIVIDUAL COMPENSATION OF ELIGIBLE ALEUTS

22 SEC. 307. (a) PAYMENTS TO ELIGIBLE ALEUTS.—(1)
23 In accordance with the provisions of this section, the Secre-
24 tary shall make per capita payments out of the Fund to eligi-
25 ble Aleuts for uncompensated personal property losses, and

1 for other purposes. The Secretary shall pay to each eligible
2 Aleut the sum of \$12,000. All payments to eligible Aleuts
3 shall be made within one year after the date of enactment of
4 this Act.

5 (2) The Secretary may request, and upon such request,
6 the Attorney General shall provide, reasonable assistance in
7 locating eligible Aleuts residing outside the affected Aleut
8 villages. In providing such assistance, the Attorney General
9 may use available facilities and resources of the International
10 Committee of the Red Cross and other organizations.

11 (3) The Administrator shall assist the Secretary in iden-
12 tifying and locating eligible Aleuts pursuant to this section.

13 (4) Any payment made under this subsection shall not
14 be considered income or receipts for purposes of any Federal
15 taxes or for purposes of determining the eligibility for or the
16 amount of any benefits or assistance provided under any Fed-
17 eral program or under any State or local program financed in
18 whole or part with Federal funds.

19 (b) AUTHORIZATION.—There are authorized to be ap-
20 propriated to the Fund such sums as are necessary to carry
21 out the purposes of this section.

22 MINIMUM CLEANUP OF WARTIME DEBRIS

23 SEC. 308. (a) CLEANUP PROGRAM.—The Secretary of
24 the Army, acting through the Chief of Engineers, is author-
25 ized and directed to plan and implement a program, as the

1 Chief of Engineers may deem feasible and appropriate, for
 2 the removal and disposal of live ammunition, obsolete build-
 3 ings, abandoned machinery, and other hazardous debris re-
 4 maining in populated areas of the lower Alaska peninsula and
 5 the Aleutian Islands as a result of military construction and
 6 other activities during World War II. The Congress finds
 7 that such a program is essential for the further development
 8 of safe, sanitary housing conditions, public facilities, and
 9 public utilities within the region.

10 (b) ADMINISTRATION OF PROGRAM.—The debris re-
 11 moval program authorized under subsection (a) shall be car-
 12 ried out substantially in accordance with the recommenda-
 13 tions for a “minimum cleanup”, at an estimated cost of
 14 \$22,473,180 based on 1976 prices, contained in the report
 15 prepared by the Alaska District, Corps of Engineers, entitled
 16 “Debris Removal and Cleanup Study: Aleutian Islands and
 17 lower Alaska Peninsula, Alaska”, dated October 1976. In
 18 carrying out the program required by this section, the Chief
 19 of Engineers shall consult with the trustees of the trust es-
 20 tablished by section 306(b) of this title, and shall give prefer-
 21 ence to the Aleutian Housing Authority as general contrac-
 22 tor.

23 (c) AUTHORIZATION.—There are authorized to be ap-
 24 propriated \$38,601,000 to carry out the purposes of this
 25 section.

1 ATTU ISLAND REHABILITATION PROGRAM

2 SEC. 309. (a) CONVEYANCE.—Notwithstanding any
 3 other provision of law, the Secretary of the Interior is au-
 4 thorized to convey to the Corporation, subject to the require-
 5 ments of this section and without cost to the Corporation, all
 6 right, title and interest of the United States in and to the
 7 lands and waters comprising Attu Island, Alaska, including
 8 fee simple title to the surface and subsurface estates of such
 9 island.

10 (b) CONDITIONS.—The Secretary of the Interior shall
 11 make the conveyance described in subsection (a) within one
 12 year after—

13 (1) the Corporation has entered into a cooperative
 14 management agreement with the Secretary of the Inte-
 15 rior, as provided in section 304(f) of the Alaska Na-
 16 tional Interest Lands Conservation Act (Public Law
 17 96-487), concerning the management of Attu Island;
 18 and

19 (2) the Secretary of Transportation and the Cor-
 20 poration have certified to the Secretary of the Interior
 21 that the Department of Transportation and the Corpo-
 22 ration have reached an agreement which will allow the
 23 United States Coast Guard to continue essential func-
 24 tions on Attu Island. The patent conveying the lands
 25 under this section shall reflect the right of the Coast

1 Guard to continue such essential functions on such
2 island, with reversion to the Corporation of all inter-
3 ests held by the Coast Guard when and if the Coast
4 Guard terminates its activities on the island.

5 (c) RULES AND REGULATIONS.—The Secretary of the
6 Interior is authorized to promulgate such rules and regula-
7 tions as may be necessary to carry out the purposes of this
8 section.

9 SEPARABILITY OF PROVISIONS

10 SEC. 310. If any provision of this title, or the applica-
11 tion of such provision to any person or circumstances, shall
12 be held invalid, the remainder of this title or the application
13 of such provision to persons or circumstances other than
14 those as to which it is held invalid, shall not be affected
15 thereby.

16 TITLE IV—MISCELLANEOUS PROVISIONS

17 DOCUMENTS RELATING TO THE INTERNMENT

18 SEC. 401. (a) DELIVERY TO NATIONAL ARCHIVES.—
19 All documents, personal testimony, and other material col-
20 lected by the Commission on Wartime Relocation and Intern-
21 ment of Civilians during its inquiry shall be delivered by the
22 custodian of such material to the Administrator of General
23 Services who shall deposit such material in the National Ar-
24 chives of the United States. The Administrator of General
25 Services, through the National Archives of the United States,

1 shall make such material available to the public for research
2 purposes.

3 (b) CONGRESSIONAL DOCUMENTS.—The Clerk of the
4 House of Representatives and the Secretary of the Senate
5 shall direct the Administrator of General Services to make
6 available, beginning on the date of the enactment of this Act,
7 to the public, for research purposes, all congressional docu-
8 ments transferred to the Clerk of the House and the Secre-
9 tary of the Senate relating to the evacuation, relocation, and
10 internment of individuals of Japanese or Aleut ancestry
11 during World War II.

12 COMPLIANCE WITH BUDGET ACT

13 SEC. 402. No authority under this Act to enter into
14 contracts or to make payments shall be effective except to
15 the extent and in such amounts as are provided in advance in
16 appropriations Acts. Any provision of this Act which, directly
17 or indirectly, authorizes the enactment of new budget author-
18 ity shall be effective only for fiscal years beginning after Sep-
19 tember 30, 1984.

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JAPANESE-AMERICAN INTERNMENT IN WORLD WAR II--THE ISSUE OF REDRESS
IP0158

The controversy over World War II internment of some 120,000 Japanese-Americans has simmered for 40 years despite several Government efforts to compensate internees with a small monetary settlement and Civil Service and Social Security credit for time interned.

Debate over the creation of the Commission on Wartime Relocation and Internment of Civilians, and the testimony and calls for redress at its hearings have resulted in many inquiries about the internment itself, the Commission and its activities, and the issue of redress.

This Info Pack has been prepared to provide basic information on the World War II internment, the Commission, its findings, and pro/con material on the complex issue of redress.

We hope this information is useful.

Congressional Reference
Division

Members of Congress desiring additional information on this topic should contact CRS at 287-5700.

Public Law 96-317

Dated July 31, 1980

Why a Commission?

Almost forty years have passed since the U.S. government ordered 120,000 civilians evacuated and detained in relocation camps, pursuant to Executive Order 9066 and Civilian Orders of the U.S. military forces.

President Franklin Delano Roosevelt signed Executive Order 9066 on February 19, 1942, despite arguments by the Attorney General and FBI Director against the military necessity for mass evacuation. The Executive Order authorized military commanders designated by the Secretary of War to exclude persons from prescribed military zones or areas. Congress backed the Executive Order by passing Public Law 77-503, which authorized imprisonment and fines for civilians convicted of violating these orders. The Western Defense Command and Fourth Army subsequently issued over 100 orders which were applied exclusively to persons of Japanese ancestry living in the Western states.

All persons of Japanese ancestry in California and portions of Washington, Oregon, and Arizona were ordered to leave their homes, taking with them only what little they could pack and carry. Businesses, property, homes, farmlands, and personal goods were left behind. Assets were frozen by the U.S. government. In 1942, the United States government built 10 relocation centers in Arizona, Arkansas, California, Colorado, Idaho, Utah and Wyoming. Japanese American citizens and permanent resident aliens were moved to these camps. In March, 1946, the last detention camp closed.

The released Japanese had great difficulty in reconstructing their lives. Many faced poverty; others found themselves homeless. All faced uncertainty regarding their future.

The policy process which resulted in the evacuation and incarceration of 120,000 civilians has never been fully documented, nor has the economic, social and psychological impact of the years in relocation centers been comprehensively recorded or told.

The Aleut residents of both the Aleutian and Pribilof Islands were removed by the U.S. military authorities from their homes during June and July of 1942. The initial decision to evacuate was based on the Japanese bombing of Dutch Harbor in the Aleutian chain, and the Japanese invasions of Attu and Kiska islands. More than 850 Aleut citizens were taken to temporary camps in southeastern Alaska, some times without adequate food, clothing, shelter, or medical supplies. Non-native residents of the Aleutian chain were allowed to remain in their communities.

In May 1944, the Aleuts were returned to their homes. Some had perished due to disease. They found their homes had often been vandalized and property stolen. The returning Aleuts faced the same uncertainty about their future as did the Japanese. "It seems funny if our government can drop so many people in a place like this and forget about them altogether," said Lee McMillin, agent and caretaker of the Punter Bay camp for the Aleuts.

SOURCE: THE COMMISSION ON WARTIME RELOCATION AND
INTERNMENT OF CIVILIANS

Chronology

Japanese

1941 December 7 — Japan's attack on Pearl Harbor. Presidential Proclamation No. 2525 gives blanket authority to Attorney General for a sweep of suspects.

December — U.S. declares war against Japan.

1942 January 29 — U.S. Attorney General issues first of a series of orders establishing limited strategic areas along the Pacific Coast and requiring the removal of all enemy aliens from these areas.

February 19 — Roosevelt signs Executive Order 9066 authorizing Secretary of War, or any military commander designated by Secretary, to establish "military areas" and exclude therefrom "any or all persons."

March 2 — General DeWitt issues Public Proclamation No. 1, designating military areas in the states of Washington, Oregon, California and Arizona. Restrictions are placed on Japanese, German and Italian aliens and Japanese Americans. Period of voluntary evacuation begins.

March 18 — President Roosevelt signs Executive Order No. 9102 creating the War Relocation Authority (WRA), a non-military agency with the authority to formulate and carry out a program for a planned and orderly relocation of persons evacuated under E.O. 9066.

March 21 — President Roosevelt signs Public Law 77-503 making it a federal offense to violate any order issued by a designated military commander under authority of E.O. 9066.

March 22 — First large contingent of Japanese and Japanese Americans moves from Los Angeles to the Manzanar Assembly Center operated by the Army.

May 19 — Western Defense Command issues Civilian Restriction Order No. 1 establishing all assembly centers and relocation centers in the eight far western states as military areas and forbidding evacuee residents to leave these areas without expressed approval of the Western Defense Command.

July 13 — Mitsuye Endo petitions for a writ of habeas corpus, alleging that she was a loyal and law-abiding U.S. citizen, that no charge had been made against her, that she was being unlawfully detained, and that she was confined in a relocation center under armed guard and held there against her will.

August 7 — Western Defense Command announces the completion of evacuation of 110,000 from their homes in the military areas either to assembly centers or to WRA centers. The last of the residents of Japanese descent in eastern California are moved to relocation centers.

1943 January 23 — Secretary of War Stimson announces plans for formation of a special combat team of Japanese American volunteers from both the Mainland and Hawaii.

February 8 — Registration ("loyalty" questionnaire) of all persons over 17 years of age for Army recruitment, segregation and relocation begins at most of the relocation centers.

June 21 — *Hirabayashi v. U.S.* and *Yasui v. U.S.* Supreme Court rules that a curfew may be imposed against one group of American citizens based solely on ancestry, and that Congress in enacting Public Law 77-503 authorized the implementation of E.O. 9066 and provided criminal penalties for violation of orders of the Military Commander.

August, September and early October — More than 15,000 people are moved in and out of the Tule Lake Center as a result of the segregation program. Those ordered out are redistributed to other centers.

1944 June 6 — D-Day

July 1 — President Roosevelt signed Public Law 78-405 permitting U.S. citizens to renounce their citizenship on American soil in time of war under procedures approved by the Attorney General.

December 17 — Western Defense Command rescinds exclusion and detention orders, freeing Japanese Americans to return to their homes on the west coast, effective January 2, 1945.

December 18 — *Korematsu v. U.S.* Supreme Court rules that one group of citizens may be singled out and expelled from their homes and imprisoned for several years without trial, based solely on their ancestry.

December 18 — *In ex parte Endo*, Supreme Court rules that WRA has no authority to detain a "concededly loyal" American citizen.

1945 August 15 — VJ Day

September — Western Defense Command issues Public Proclamation No. 24 revoking all individual exclusion orders and all further military restrictions against persons of Japanese descent.

1946 June 30 — War Relocation Authority program officially terminates.

1948 July 2 — Evacuation Claims Act passed, giving evacuees until January 3, 1950 to file claims against the government "for damages to or loss of real or personal property... that is a reasonable and natural consequence of the evacuation..." Total of \$38 million paid by the government, or less than 10¢ per dollar lost.

1976 — President Gerald Ford formally rescinds Executive Order 9066.

Aleut and Pribilof Islanders

1942 June 3 — Japanese bomb Navy facilities in Dutch Harbor (Unalaska) Aleutian Islands.

June 6 — Japanese secure a beachhead on Kiska Island, Aleutian Islands. Japanese take all 10 Navy personnel prisoners.

June 8 — Japanese army lands unopposed at Holtz Bay, Attu Island, Aleutian Islands, and takes 42 Aleuts and 2 U.S. government civilian employees prisoner; occupies Kiska Island.

June 14 — Atka villagers are found by the U.S.S. Hulbert and evacuated.

June 15 — Interior Department officials learn of the Aleutian evacuation. Initially, the Fish and Wildlife Service was given the responsibility for Pribilof Aleuts, with the office of Indian Affairs responsible for all other Aleuts.

June 16 — U.S. military evacuates St. George, Pribilof Islands. Less than 24 hours are given for departure. Natives' cattle are killed and their houses booby-trapped but not destroyed. St. Paul Island, Pribilof Islands is evacuated.

June 25 — Atka Aleuts are discharged at Killisnoo where the office of Indian Affairs has decided to locate them in a fish cannery.

St. Paul and St. George villagers are discharged at Funter Bay.

June 26 — All Aleuts have been evacuated.

1943 Midsummer — Japanese withdraw entirely from the Aleutian Island chain.

December 13 — Secretary of War Henry Stimson gives final approval for all Aleuts to return home.

1944 May 4 — U.S. Air Transport returns the Aleuts to the Pribilof.

August 7 — President Roosevelt authorizes the allocation of \$10,000 from his emergency fund for claims for damages.

Commission Mandate

Public law 96-317, passed July 31, 1980, established a Commission to gather facts to determine whether any wrong was committed against those American citizens and permanent resident aliens affected by Executive Order 9066, and for other purposes.

Duties of the Commission

- To review the facts and circumstances surrounding Executive Order 9066, issued February 19, 1942, and the impact of such Executive Order on American citizens and permanent resident aliens.
- To review directives of United States military forces requiring the relocation, and in some cases, detention in internment camps of American citizens, including Aleut civilians, and permanent resident aliens of the Aleutian and Pribilof islands.
- To recommend appropriate remedies.
- The Commission shall hold public hearings in such cities of the United States that it finds appropriate.
- The Commission shall submit a written report of its findings and recommendations not later than one year after the date of its first meeting.

Commission Members

Joan Zeldes Bernstein, Chair

Ms. Bernstein is a partner with Wald, Harkrader & Ross. She has served as General Counsel for the U.S. Department of Health and Human Services and the Environmental Protection Agency, and was named Vice Chair of the council of the Administrative Conference of the United States. Ms. Bernstein received her B.A. from the University of Wisconsin, and her LL.B. from Yale Law School.

Daniel E. Lungren, Vice Chair

Congressman Lungren is a second term member from Long Beach, California, and serves on the House Judiciary Committee, the Select Committee on Aging, and the Republican Task Force on Congressional and Regulatory Reform. Mr. Lungren received his B.A. from Notre Dame University and J.D. from Georgetown University.

Senator Edward W. Brooke

Mr. Brooke is partner with O'Connor & Hannan. He has served as attorney general for Massachusetts and United States Senator.

Father Robert E. Drinan

Father Drinan is president of Americans for Democratic Action. He has been active in civic affairs and was a member of Congress from 1970-1980. He is an ordained Jesuit priest.

Dr. Arthur S. Flemming

Dr. Flemming is Chairman of the United States Civil Rights Commission. Dr. Flemming has been Secretary of HEW, Chairman of the White House Conference on Aging, Special Counsel to the President on Aging, and many other important positions in public service.

Justice Arthur J. Goldberg

Justice Goldberg has been Secretary of Labor, Associate Justice in the United States Supreme Court, U.S. Representative to the United Nations, and Ambassador at-large for the United States. He is president of the American Jewish Committee.

Father I. V. Gromoff

Father Gromoff is an ordained Russian Orthodox priest from Unalaska in the Aleutian Islands. He has been active in the Aleutian/Pribilof Island Association and was relocated to Funter Bay camp during World War II.

Judge William M. Marutani

Judge Marutani presently serves on the bench for the Court of Common Pleas of Philadelphia County, Pennsylvania.

Senator Hugh B. Mitchell

Senator Mitchell was appointed to the U.S. Senate from Washington state, and served as a member of Congress from the 1st District of Washington for two terms.

Commission Hearings

Washington, D.C. July 14 and 16, 1981
Los Angeles, California August 4, 5, and 6, 1981
San Francisco, California August 11, 12, and 13, 1981
Seattle, Washington September 9, 10, and 11, 1981
Anchorage, Alaska September 15, 1981
Aleutian Islands (Unalaska) September 17, 1981
Pribilof Islands (St. Paul) September 19, 1981
Chicago, Illinois September 22 and 23, 1981

How to Participate

The Commission is interested in hearing from you. The members of the Commission would like to be informed of the views of concerned individuals and would like to encourage statements which will provide a framework for discovering the facts of the relocation and internment of civilians. The Commission welcomes your views and suggestions.

The Commission on Wartime Relocation and Internment of Civilians

New Executive Office Building
726 Jackson Place, NW
Suite 2020
Washington, D.C. 20506
Telephone: (202) 395-7390

Japanese Americans and Injustice. (1983, March 2). *The Washington Post*, p. A22.

How to Atone for 'War Hysteria'. (1983, March 1). *The New York Times*, p. A22.

December 7, 1982

an American, I must share my views on this most sensitive issue.

The wartime relocation of Japanese-Americans in 1942 can only be understood in the context of California history. As is well known, California has been the principal source of anti-Oriental propaganda in the United States for more than 100 years. During the Gold Rush days, by 1851, there were 25,000 Chinese in the State. It was a regular practice of miners, on a big Saturday night drunk, to raid the Chinese sections of mining towns to beat up or lynch a few Chinese just for the hell of it. Chinese were often the victims of mob violence. A mob of whites shot and hanged 20 Chinese one night in Los Angeles in 1871.

When the first transcontinental railroad, the Central Pacific, was completed, great ceremonies were held in connection with the hammering in of the Golden Spike to celebrate the occasion. Eloquent speeches were given praising the magnificent contributions of Englishmen, Irishmen, Germans, Frenchmen, and others who had contributed to the completion of the railroad. But no Chinese were invited to this event, although they above all—10,000 of them—had done the most dangerous and demanding labor to make the completion possible. The Chinese were dismissed when their work was done and set adrift without severance pay.

Anti-Chinese legislation and agitation were common throughout the latter half of the 19th century and well into the 20th. The workers discharged from the railroads drifted from town to town looking for work. In San Francisco they entered some of the skilled trades like hatmaking, cigarmaking, tailoring and so on. It is an interesting fact that the first union label was one placed on cigars to tell the customer that this cigar was made by white men and not by Chinese. That is what the union label means. That is the proud origin of the union label. In 1882 the Chinese Exclusion Act was passed after much agitation on the part of Californians, including the very influential and then-powerful Sons and Daughters of the Golden West.

The persecution of the Chinese continued into the 20th century. Chinese-American friends of mine who are now older professional men in San Francisco remember the days when, if they left the Chinese area, they were beaten up by Irish and other toughs, so they had to stay within the limits of Chinatown. Throughout this period, pamphlets and books were published attacking Orientals as a menace to white society.

The Hearst newspapers continued to lead a crusade against the "Yellow Peril." The Sacramento Bee, Fresno Bee, Modesto Bee—all of the McClatchy chain—were notorious for their anti-Oriental propaganda. I remember as a high school student in

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Mr. HAYAKAWA. Mr. President, I should like to remind my friends and colleagues that today is December 7, the 41st anniversary of the Japanese attack on Pearl Harbor.

Forty-one years ago today forces of the Empire of Japan attacked the United States at Pearl Harbor. Less than 3 months later President Franklin D. Roosevelt signed the Executive order that led to the relocation and detention of some 120,000 Japanese-American citizens and noncitizens in relocation centers.

In the four decades since that "day of infamy" we have destroyed our powerful adversary and built her up to be a powerful friend—so powerful that we now plead with her to restrict the export of her products.

In the four decades since the mutual hatreds of war, we have so healed ourselves that we now have a prosperous, thriving Japanese-American community which, despite its small population of about 600,000, includes not one, not two, but three U.S. Senators. The ancestors of these three men worshiped the Emperor. But these men stand in this Chamber, the heart of our democracy, and when the spirit moves them, freely criticize the President.

But one controversy has not subsided during the 41 years since Pearl Harbor. If anything, it has grown. That is the controversy over the relocation of Japanese-Americans.

In an effort to understand the issue, the Congress created a commission to investigate the events surrounding the relocation and to make any recommendations for redress. By law the commission must release its findings in a report by December 30, 1982. According to several newspaper reports, it will recommend compensation to those who were interned of up to \$25,000 per person.

Whether or how we shall compensate those interned is a matter for future Congresses, of which I shall not be a Member. But as a U.S. Senator, a Japanese-American, and especially as

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Winnipeg in the early 1920's writing a term paper on anti-Oriental agitation in California, and it was then that I learned of the McClatchy newspapers, long before I knew where Sacramento, Modesto, and Fresno were. The Hearst newspapers were no better.

The attacks upon Orientals were not limited to the popular press or to labor unions and "patriotic" societies. It was highly endorsed by many of the leading intellectuals of the time. There were such books as Lothrop Stoddard's "The Rising Tide of Color, Against White World Supremacy" (1920). Other distinguished intellectuals who wrote warning books against the Orientals were people like Madison Grant, who wrote "Passing of the Great Race, or Racial Basis of European History" (1916). There was also the distinguished labor economist of the University of Wisconsin in the 1930's, Prof. E. A. Ross. When I was a graduate student at the University of Wisconsin in the 1930's, I used to see Professor Ross at the University Club. He never spoke to me nor did I ever speak to him. I did not know then what I learned much later, namely, that he was one of the leading intellectual advocates of exclusion of Orientals from the American labor force. He was regarded as a great liberal at the time.

There was also the widely accepted doctrine of what was later to be known as "Social Darwinism," to the effect that the white race was the highest point of human evolution, and that yellow, brown, and black people represented lower stages. Indeed, white people themselves were divided into the "higher" North European—"Nordic," "Aryan"—and the "lower" South Europeans—Slavs, Greeks, and Italians. The fact that these ideas were widely believed to be scientific is all too evident in the U.S. Immigration Act of 1924, which codified these ideas into law, and which gave high immigration quotas to British, Germans, and Scandinavians, lower quotas to Middle and South Europeans, and total exclusion to the Japanese. The Chinese had already been excluded in 1882.

Against this background of almost 100 years of successful anti-Oriental agitation throughout California, it is easy to understand that the attack on Pearl Harbor aroused in the people of California, as well as elsewhere, all the superstitious, racist fears that had been generated over the years, as well as the normal insanities of wartime. The surprise attack on Pearl Harbor was called "a stab in the back"—a typical Oriental form of behavior.

It is difficult for people who did not live through that dreadful time to reconstruct the terror and the anxiety felt by people along the entire west coast. Disaster followed upon disaster after the attack on Pearl Harbor. On that same day, December 7, 1941, Japanese forces landed on the Malay Peninsula and began their drive toward Singapore. Guam fell on December 10,

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Wake on December 23. On December 8 Japanese planes destroyed half the aircraft on the airfields near Manila. As enemy troops closed in, General MacArthur withdrew his forces from the Philippines and retired to Australia. On Christmas Day the British surrendered Hong Kong.

The Western World was scared stiff. The west coast of the United States, rich with naval bases, shipyards, oil fields, and aircraft factories, seemed especially vulnerable to attack.

There was talk of evacuating not just the Japanese from the west coast but everybody. Who knew what was going to happen next?

How frightening were the nightly blackouts during that bleak winter of defeat. Would Japanese carriers come to bomb the cities—San Diego, San Francisco, Los Angeles? Would submarines sneak through the Golden Gate to shell San Francisco? Would they actually mount an invasion? Who could tell?

I moved to San Francisco in 1955. You could still see along the shores of Marin County the great big remains of submarine nets that went across the Golden Gate to catch Japanese submarines in case they started sneaking through the Golden Gate. That is how serious the fear was.

War of course breeds fear of enemies within—spies, saboteurs. There were rumors that Japanese farmers in Hawaii had cut arrows in their fields to direct Japanese fighter pilots to targets at Pearl Harbor, and that west coast Japanese were equally organized to help the enemy. Such rumors were later found to be totally without foundation, but in the anxieties of the moment they were believed.

It was a field day for inflammatory journalists and newscasters: Westbrook Pegler, John B. Hughes—even Damon Runyon—on the radio every night, screaming, these alarmist broadcasts about the dangers of Japanese attack.

The columnist Henry McLemore wrote:

Herd 'em up, pack 'em off and give 'em the inside room in the badlands . . . Let us have no patience with the enemy or with any whose veins carry his blood . . . Personally I hate the Japanese. That goes for all of them.

So both at the level of sensational journalism and at the level of the social sciences into the 1930's, the idea of white supremacy was challenged by remarkably few. In California, white supremacy took the form of anti-Orientalism. The notion that the Oriental was shifty, mysterious, and untrustworthy was built into the culture in such books as the Sax Rohmer "Dr. Fu Manchu" novels.

Most Americans have always had difficulty distinguishing between Chinese and Japanese I—must say the Chinese and Japanese have the same difficulty—although the latter were treated far more leniently than the former. The Chinese, except for diplo-

mats and merchants, were forbidden to bring women or wives to America, so that they were essentially a society of bachelors. You can still see many of these lonely old bachelors sunning themselves in Portsmouth Square in San Francisco.

If you want to see the evidence of history still alive, and that evidence in front of your eyes, you can see these old, elderly Chinese gentlemen in old, old clothes and old hats playing chess in Portsmouth Square, all of them 75, 80, and 90 years old. They are the old bachelors who came at a time when they did not let Chinese women into the country at all. But the Japanese could bring their wives or send for picture brides, that is, brides selected from photographs, so that they developed strong family ties and a place for themselves in American society, especially through their children who learned English in the public schools and helped to Americanize their parents.

Again the popular hue and cry was backed up by reputable intellectuals. Walter Lippmann, the dean of American social commentators then and for decades thereafter, joined in the demand for mass evacuation. The idea was also supported at the time by such liberal intellectual journals as the Nation, the New Republic, and the extra-liberal but short-lived New York newspaper, PM.

On February 19, 1942, President Roosevelt signed Executive Order 9066, which set in motion the evacuation program. It applied to all Japanese, citizens and noncitizens alike, in the three Western States and a portion of Arizona. Altogether some 110,000 were relocated, of whom more than 70,000 were American citizens by birth; the remainder were not able to become citizens under the laws then prevailing.

Of course the relocation was unjust. But under the stress of wartime anxieties and hysteria and in the light of the long history of anti-Oriental agitation in California and the West, I find it difficult to imagine what else could have occurred that would not have been many times worse. If things had continued to go badly for American forces in the Pacific—and they did—what would Americans on the west coast have done to their Japanese and Japanese American neighbors as they learned of more American ships sunk, more American planes shot down, more American servicemen killed, including your husband, your boyfriend, your brothers? What would they have done? Would they have beaten their Japanese neighbors in the streets? Would they have ostracized and persecuted Japanese American children? Would mobs have descended on Little Tokyo in Los Angeles and Japan town in San Francisco to burn down shops and homes?

There was precedent for such behavior in California, especially directed

against the Chinese. The Chinese started wearing lapel pins saying, "I am Chinese."

I recall a friend of mine, a Japanese American now living in Marin County, who was 11 years old when the war broke out. She and her parents were vastly relieved when they learned of their evacuation from the west coast. Most of her generation and her parents generation welcomed the evacuation as a guarantee of their personal safety.

The question is often asked why Germans and Italians were not interned and why the Japanese in Hawaii were left alone. The answer is simple. Germans and Italians were persecuted during World War I, when they were fairly recent immigrants, but there were too many of them to intern. However, "patriots" dumped garbage on the lawns of German homes, and in some east coast cities, all the German books in the public libraries were burned and courses in the German language offered in colleges and high school stopped. By the time of World War II, both Germans and Italians were a well-established and familiar part of American life. The same was true of the Japanese in Hawaii, who were more than 20 percent of the population there and well known and trusted. Besides there were not enough ships to transport the huge Japanese populations out of the major islands.

On the west coast of the American mainland, the situation was different. The Japanese were a small fraction of the population of California, Washington, and Oregon. The immigration of Japanese was principally between the years 1900 to 1924; then it was stopped by law. Japanese males, who constituted the first immigrants, married late in life because they felt that they had to have a steady job before they could send for a bride from Japan. Hence the typical Japanese American family consisted of a father 20 years older than the mother, and the average age of the Nisei, as the American-born Japanese were called, at the time of Pearl Harbor was 16.

This last statistic is of great importance in accounting for the evacuation and internment.

If the average age of the American-born Japanese is 16, it means that the average white adult official in California knew little or nothing about the Japanese. He had not gone to school with Japanese children nor visited their homes. He had not had Japanese friends on baseball or debate teams. Furthermore, the Japanese parent generation spoke little English or none at all. So the ruling classes, the people in the city councils, the State assemblies, and so on, did not know who the Japanese were. They did not know anything about them. So whatever Westbrook Pegler said about them was likely to be true.

For most white Americans, especially those old enough to sit in positions

of authority, the Japanese were a strange and foreign element, so almost anything could be believed about them.

For example, it was widely believed—Japanese used to send their children, after public school, to Japanese language schools. It was widely believed that the Japanese children going to Japanese language school were being taught reverence for the Emperor of Japan, that they were being indoctrinated with Japanese patriotism.

This happened to be true. That is, many of the teachers who came over in the 1930's were products of the superheated patriotism in Japan that made it possible for Pearl Harbor to happen. However, it was not possible at that time to predict that this indoctrination in emperor worship would prove to be totally ineffective.

Incidentally, our distinguished colleague DANIEL INOUE, as a pupil in a Japanese language school in Hawaii before World War II, kicked up a strenuous protest against the use of these schools to preach Japanese nationalism—and look what happened to him. He got elected to the U.S. Senate.

The relocation centers in desert areas to which the Japanese were assigned were, indeed, dreary places. However, the governing body of the centers, the War Relocation Authority, was headed by the wise and humane Dillon Myer, a midwesterner who, before his appointment, had known almost nothing about the Japanese.

Dillon Myer, by the way, died just about a month ago at quite an advanced age. I believe he was in his nineties.

Being a firm believer in democracy and justice and knowing the people in the camps has done nothing to deserve their internment. Mr. Myer did everything possible to make life tolerable for the internees. He encouraged camp self-government, hired teachers from outside to continue the education of the children, sent WRA staff around the East and Middle West to seek college admittance for Nisei who had graduated from the camp high schools. One result was that many Nisei students who, without enforced evacuation from the west coast, might have stopped with a high school education to work in their father's shops or farms, instead went on to college, including prestigious and private institutions such as Antioch, Oberlin, and Mount Holyoke, as well as to such great public institutions as Minnesota, Michigan, Wisconsin, and Purdue.

A large number of young people—middle-aged people by this time—from very modest families got a college education which they otherwise would never have if they had not been sent to relocation camp.

The officials of the staff of the WRA with a few exceptions were deeply concerned about the injustice of the relocation program, eager to re-

store the Japanese Americans, especially Nisei, to normal American lives. They fanned out over the United States east of the Rockies to seek employment for them. You must understand that the Japanese Americans that were put into camps were only those who lived west of the Rockies. If you lived east of the Rockies—Salt Lake City, Denver, Chicago—they left you alone, because you were not considered to be a military danger. I was living in Chicago, thank goodness.

They fanned out over the United States east of the Rockies to seek employment for the internees. Everywhere the Japanese Americans went, they impressed their employers by their industry and loyalty, so that more were summoned from the camps—scientists, teachers, mechanics, food processors, agricultural workers. By the time the order excluding Japanese from the west coast was rescinded on January 2, 1945, half the internees had found new jobs and homes in mid-America and the East.

I emphasize this last point because the relocation centers were not "concentration camps." The younger generation of Japanese Americans love to call them concentration camps. Unlike the Nazis, who made the term "concentration camp" a symbol of the ultimate in man's inhumanity to man, the WRA officials worked hard to release their internees not to be sent to gas chambers but to freedom, to useful jobs on the outside world and to get their B.A. at Oberlin College.

By 1945, there were almost 2,500 Nisei and Issei in Chicago, a city that was most hospitable to Japanese, and I myself found relatives I did not know existed. Other Midwest and Eastern cities acquired Japanese populations they did not know before the war: Minneapolis, Cleveland, Cincinnati, New York, Madison, Wis., Des Moines, St. Louis, and so on. And those who remained in camp in most cases did so voluntarily. These were the older people, afraid of the outside world, with the Nation still at war with Japan.

I point out these facts to emphasize the point that to call relocation centers concentration camps, as is all too commonly done, is semantic inflation of the most dishonest kind, an attempt to equate the actions of the U.S. Government with the genocidal actions of the Nazis against the Jews during the Hitler regime. As an American I protest this calamity against the Nation I am proud to have served as an educator and even prouder to serve as a legislator.

Now, the relocation center at Tule Lake, Calif., was different from the others. It was there that those who resisted the evacuation and internment, including a Japanese veteran of the U.S. Army in World War I, a Nisei who renounced American citizenship in protest against the relocation, and other angry people were sent to isolate

them from those who patiently accepted their internment. There were frequent disturbances at Tule Lake.

The trouble-free lives at all the relocation centers other than Tule Lake can be contributed to a cultural trait of the Japanese, clearly seen in the Issei, that is, the older generation of immigrants, but almost unheard of in their American-born grandchildren, and that is the concept of *gaman*, which means endurance. *Gaman* is to endure with patience and dignity, especially dignity, hardships, misfortunes or injustices, especially those about which nothing can be done.

I am sure there are some Americans who will be enraged at the suggestion that anyone was happy in a relocation camp. But with the concept of *gaman*, you learn to make the best of a tough situation, endure with patience and dignity the situation you are in and make the best of it.

The people in the relocation camps were shopkeepers, market gardeners, farmers, laborers, all in relatively humble occupations, finding themselves with 3 years of leisure on their hands.

As one elderly gentleman said recently, "That was the first time in my life that I didn't have to get up at 4 o'clock in the morning to milk the cows."

Finding themselves with some leisure in their lives, they went in for art. There was a tremendous artistic output. They turned out little masterpieces of sculpture, flower arrangements, and ceramics and painting, later memorialized in a scholarly volume entitled "Beauty Behind Barbed Wire" by Allen Hendershott Eaton, 1952.

How else can one account for the elderly Japanese farmers and grocers who gathered around a bridge table to go over the *nagauta*, a traditional, long narrative song, and the music from the *kabuki*, which is the Japanese equivalent of opera?

For many older Japanese, the relocation turned out to be a 3-year release from unremitting work on farms and vegetable markets and fishing boats, and they used this leisure to recover and relive the glories of their traditional culture.

Now I come to the most important part of the story. It is the story of the Nisei, the children of the older generation I have just been talking about.

It was a great humiliation for the Nisei of the 100th battalion of the Hawaii National Guard to be sent to Camp McCoy, Wis., where they were trained with wooden guns.

SPARK MATSUNAGA, now a U.S. Senator from Hawaii, was in that unit. He writes:

We wrote home of our great desire for combat duty to prove our loyalty to the United States. It was not known to us then that our letters were being censored by higher authority. We learned subsequently that because of the tenor of our letters, the War Department decided to give us our chance. Our guns were returned to us, and

we were told that we were going to be prepared for combat duty . . . Grown men leaped with joy.

On January 28, 1943, the War Department announced that Nisei would be accepted as a special combat unit. They volunteered in the thousands both from Hawaii and from the relocation camps. They were united with the 100th Battalion as the 442d Regimental Combat Team at Camp Shelby, Miss.

The 100th Battalion first saw action at Salerno, Italy, in September 1943, and took heavy casualties. The 442d landed in Italy in June 1944, at once gained a reputation as an assault force, and accomplished the famous rescue of the "lost battalion" of the 36th (Texas) Division at an enormous cost in blood. Fighting in seven major campaigns, the men of the 442d suffered 9,486 casualties and won more than 18,000 individual decorations for valor.

Another 3,700 Nisei served in combat areas in the Pacific as translators and interpreters. The Japanese military, believing their language to be too difficult for foreigners to master, were careless about security. They did not count on Nisei on every battlefield reading captured documents and passing information on to Allied commanders. Kibel, Nisei born in America but educated in Japan and originally the object of special distrust, turned out to be especially helpful in this respect.

They were born in America. They were American citizens, but they were educated in Japan. They could read Japanese very well, so they were very, very good for intelligence work.

In short, the Nisei covered themselves with honor and made life in America better for themselves, their parents, who a few years after the war won the right to be naturalized, and their children. I remember vividly the returning Nisei veterans I saw in Chicago soon after V-E Day. Short of stature as they were, they walked proudly, infantry combat citations on their chests, conscious that they were home—in their own country. Chicago, known throughout the war for its hospitality to servicemen, outdid itself when the Nisei returned. They had earned that welcome.

The relocation was a heart-breaking experience for Japanese Americans as well as a serious economic loss for those who had spent decades of labor on their farms and businesses. But most seriously it was an affront. America was saying to them, "You are not to be trusted. You are Japs. We doubt your loyalty."

The Nisei, although very much Americanized, are in some respects profoundly Japanese. An imputation of disloyalty, being an affront, was also a challenge. A powerful Japanese motivation is "girl to one's name"—the duty to keep one's reputation—and one's family's—unblemished. Girl is also duty to one's community, one's employers, to one's nation. The Nisei's

nation was the United States. One accused of disloyalty is dutybound to remove that disgrace by demonstrating himself to be loyal beyond all expectation.

This is a basic reason the Nisei volunteered in such numbers and fought so well. More than 33,000 Nisei served in the war—a remarkable number out of a total Japanese American population—Hawaii and mainland combined—of little more than 200,000. They had a fierce pride in their reputation as a group.

The Nisei were also motivated by "girl to one's name." Those who found jobs outside the camps were exemplary workers, as if to prove something not only about themselves but about their entire group. Japanese Americans, young and old alike, accepted the mass relocation with dignity and maturity, making the best of a humiliating situation. In so doing, they exhibited the finest resources of their ancient background culture.

The prewar theory of white supremacy was completely discredited by the crushing defeat of Hitler and Hitlerism. The prejudice against Japanese in America was all but wiped out by the courage and the sacrifice of Nisei service men in Italy and the Pacific. Then in the 1960's came the civil rights movement, which further discredited doctrines of racial superiority and inferiority. We live today in a totally different era, in which the prevailing racialist theories of the 1930's and earlier are seen as historical curiosities.

The Nisei, with their courage, and their parents, by their industry, have won for Japanese Americans the admiration and respect of all Americans. Japanese Americans have an average level of education higher than any other ethnic group, including whites. They have a higher representation in the learned professions—medicine, law, engineering, computer science—than other ethnic groups—and in this respect they are doing as well as another group famous for their respect for learning—namely, the Jews. The per capita income of Japanese-Americans is \$500 a year above the national average. And they have, with a population of less than half a million, three representatives in the U.S. Senate, while the blacks, with a population approaching 23 million, have none. What more can Japanese-Americans want? We are living today at a time when Japanese-Americans are almost a privileged class, with their notorious scholastic aptitude, their industriousness, and their team spirit in whatever occupation they find themselves.

Mr. President, I am proud to be a Japanese-American. But when a small but vocal group of Japanese-Americans calling themselves a redress committee demand a cash indemnity of \$25,000 for all those who went to relocation camps during World War II, including those who were infants at the time and those who are now dead, a

total of some two and three-quarters of a billion dollars—we have been seeing this in a series of articles being published in the Washington Post—my flesh crawls with shame and embarrassment.

Let me remind the Japanese American Redress Committee that we also live in a time when American industry is seriously threatened by Japanese competition—in automobiles, steel, cameras, television, and radio sets, tape recorders, and watches. I warn the Japanese Americans who demand about \$3 billion of financial redress for events of 41 years ago from which nobody is suffering today, that their efforts can only result in a backlash against both Japanese Americans and Japan. And to make such a demand at a time of the budget stringencies of the Reagan administration is unwise enough, but to make this demand against the background of their own record as America's most successful minority is simply to invite ridicule.

Let me remind the Japanese Americans that we are, as we say repeatedly in our Pledge of Allegiance, "one nation," striving to achieve "liberty and justice for all."

This means—and I say this to black Americans and Mexican Americans and all other ethnic political groups—let us stop playing ethnic politics to gain something for our own group at the expense of all others. Let us continue to think of America as "one nation, under God, indivisible" and let us act accordingly.

Kishiyama, D. (1981, August 4). Wartime Crime Against 77,000 Americans Awaits Redress. *Los Angeles Times*, p. 5.

Watanabe, T. (1980, June 29). Redress Divides Japanese-Americans: Some War Internees Want Losses Repaid, Others Want Nothing. *Los Angeles Times*, pp. 19-20.



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**THE INTERNMENT OF GERMAN AND ITALIAN ALIENS COMPARED WITH THE INTERNMENT
OF JAPANESE ALIENS IN THE UNITED STATES DURING WORLD WAR II:
A BRIEF HISTORY AND ANALYSIS**

**Peter B. Sheridan
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November 24, 1980**

PREFACE

The internment in the United States during World War II of more than 100,000 Japanese Americans, aliens and native-born citizens alike, has been the subject of numerous articles and books. Less well known is the fact that a significantly smaller number of German and Italian aliens, and some citizens, were also interned, despite the fact that they comprised a greater population than the Japanese Americans, and were present in larger numbers in equally sensitive and strategic areas of the United States.

Recently, a Commission on Wartime Relocation and Internment of Civilians was established (P.L. 96-317, July 31, 1980) "to gather facts to determine whether any wrong was committed against those American citizens and permanent resident aliens affected by Executive Order No. 9066" which authorized the War Department in 1942 to exclude persons from designated military areas.

The reasons for this disparity in treatment form the basis for the attached report.

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OF JAPANESE ALIENS IN THE UNITED STATES DURING WORLD WAR II:
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In 1940 the military successes of the Axis powers (Germany, Italy, Japan), in Europe and elsewhere, caused a reappraisal of the traditional policy of the United States regarding immigration and naturalization. As a result, and as a precautionary measure, Congress in June of 1940 passed the Alien Registration Act. ^{1/} An Alien Registration Division was established in the Department of Justice and registration began in August 27, 1940. Registration involved not only fingerprinting but also required the alien to answer forty-two questions including occupation, geographical location, biographical data, organizational membership, and status of citizenship. When registration was completed, 4,921,452 aliens had reported in the United States, and the Director of the Alien Registration Division noted that we "know more about the strangers in our midst than about ourselves." ^{2/}

Immediately after the attack on Pearl Harbor, the Federal Bureau of Investigation began a roundup of aliens deemed potentially dangerous as a result of prior investigation by the Bureau. Within weeks, several thousand

^{1/} 54 Stat. 670. Also known as the Smith Act.

^{2/} Perry, Donald R. Aliens in the United States. In Minority Peoples in a Nation at War. Philadelphia, American Academy of Political and Social Science, 1942. (Annals, v. 223, September 1942) p. 6. For detailed description of actual registration, filming of records, coding cards, fingerprinting, etc., see Amidon, Beulah. Aliens in America. Survey Graphic, v. 30, February 1943. p. 58-61.

aliens had been taken into custody, brought before an Alien Enemy Hearing Board and then released, paroled, or interned, for the duration of the war. Those interned, if not considered a threat, were allowed later to apply for parole. 3/

Early Japanese military and naval successes, and a belief that the American mainland would be attacked, convinced many Americans, especially those living on the West Coast, that this somewhat selective screening process was not satisfactory. It was not long before calls were heard for an evacuation of all aliens, but especially the Japanese, from designated military areas. In January 1942, for example, Lt. Gen. John L. DeWitt, commander of the Western Defense Command, stated that the only solution was "evacuation of all enemy aliens from the West Coast and resettlement or internment under positive control, military or otherwise." 4/

Certain steps had already been taken (via Presidential proclamations in December 1941 and January 1942) to regulate the conduct and movement of enemy aliens. However, none of these measures was as severe as some desired. In January and February of 1942, additional measures were announced by the

3/ Hoover, J. Edgar. Alien Enemy Control. Iowa Law Review, v. 29, March 1944. p. 402-403. Paroled meant that the individual was released but was under the observation of a "sponsor" selected by the Hearing Board.

4/ Conn, Stetson, et al. Guarding the United States and Its Outposts. The Western Hemisphere. United States in World War II. Prepared for the Office of the Chief of Military History, Department of the Army. Washington, U.S. Govt. Print. Off., 1964. p. 123.

United States Attorney General by which aliens were excluded from various areas on the West Coast. 5/

Continued agitation against aliens on the West Coast resulted in the issuance of Executive Order No. 9066 on February 19, 1942. This order gave the Secretary of War, or his military commanders, the authority "to exclude American citizens as well as alien enemies, from such areas as the Secretary should designate." 6/ Lt. Gen. John L. DeWitt was designated as the military commander to carry out the provisions of the executive order in the Western Defense Command. Successive proclamations by DeWitt restricted the movement of aliens. Finally, on March 24, 1942, DeWitt issued the first formal evacuation order in Civilian Exclusion Order No. 1 by which all Japanese, aliens and nonaliens, were excluded from military areas in the State of Washington. Later orders extended exclusion to California and Oregon. 7/

Six days later, General DeWitt announced that certain classes of aliens might be exempted from the exclusion orders. Eligible for exemption were the following:

5/ U.S. Congress. House. Select Committee Investigating National Defense Migration. National Defense Migration; Findings and Recommendations on Evacuation of Enemy Aliens and Others From Prohibited Military Zones. Fourth Interim Report pursuant to H. Res. 113. House Report no. 2124, 77th Cong., 2d sess., May 1942. Washington, U.S. Govt. Print Off., 1942. p. 160-162. Hereafter cited as Tolan Committee, Findings and Recommendations.

6/ Ibid., p. 163. It should be noted that authority to deal with aliens was now removed from the Justice Department. P.L. 77-503 (March 21, 1942) enforced exclusion from military areas.

7/ Tolan Committee; Findings and Recommendations, p. 164-165.

1. German and Italian aliens 70 or more years of age.
2. German and Italian aliens, parents, wives, husbands, children of (or other person residing in a household whose support is dependent upon) any officer, enlisted man, or commissioned nurse on active duty in the Army of the United States (or any component thereof), United States Navy, Marine Corps, or Coast Guard.
3. German or Italian aliens, parents, wives, husbands, children of (or other person residing in a household whose support is wholly dependent upon) any officer, enlisted man, or commissioned nurse who on or since December 7, 1941, has died in line of duty with the armed forces of the United States indicated in the preceding paragraph.
4. German and Italian aliens awaiting naturalization who had filed a petition for naturalization and who had paid the filing fee therefor on or before December 7, 1941.
5. Patients in hospitals, or confined elsewhere, and too ill or incapacitated to be removed therefrom without danger to life.
6. Inmates of orphanages and the totally deaf, dumb, or blind.

However, Japanese were declared ineligible for all except categories 5 and 6. Thus, for all practical purposes, evacuation from the West Coast was limited to the Japanese. ^{8/}

There was some opposition to the evacuation of the Japanese, but this was stilled by the Japanese victories in the Pacific in early 1942. Secretary of War Henry L. Stimson, for example, acquiesced because he had come to the conclusion that the "racial characteristics" of the Japanese were "such that we cannot understand or trust even the citizen Japanese." ^{9/} Attorney General Francis Biddle's efforts to prevent evacuation were derided on the West Coast as "Biddling along," and he yielded; but he did resist successfully

^{8/} Tolson Committee; Findings and Recommendations, p. 165.

^{9/} Burns, James MacGregor. Roosevelt: The Soldier of Freedom. New York, Harcourt Brace Jovanovich, Inc., 1970. p. 215.

similar measures on the East Coast and was instrumental in setting up one or more hearing boards in each judicial district. ^{10/}

Opposition to the evacuation of German and Italian aliens met with more success because the presence of large numbers of these people was not perceived as a threat to national security, nor did they provoke the sort of hysteria and panic engendered on the West Coast by the Japanese population. Moreover, the problems posed in moving such large numbers deterred any major effort for evacuation. Nevertheless, General DeWitt expressed a determination to proceed against the German and Italian aliens as soon as the evacuation of the Japanese was completed. Several of his staff members opposed such plans and they were aided by similar resistance in the War Department.

In February 1942, Secretary of War Stimson directed General DeWitt to "not disturb, for the time being at least, Italian aliens and persons of Italian lineage" unless they constituted a definite danger. In support of this order, Stimson stated that the Italians were "potentially less dangerous, as a whole, than those of other enemy nationalities" and that because "of the size of the Italian population and the number of troops and facilities which would have to be employed to deal with them, their inclusion in the general plan would greatly overtax our strength." ^{11/}

^{10/} Galkins, C. Wartime Attorney General. Survey Graphic, v. 31, October 1942. p. 423.

^{11/} tenBroek, Jacobus, et al. Prejudice, War and the Constitution: Census and Consequences of the Evacuation of the Japanese Americans in World War II. Berkeley, University of California Press, 1975. p. 302. A similar conclusion was reached by a congressional committee investigating evacuation. In March 1942, the committee called mass evacuation of German and Italian aliens an "unmanageable proposal," and internment for the duration of the war was considered "unthinkable." U.S. Congress. House. Select Committee Investigating
(continued)

By March 1942, the War Department had decided that any evacuation of German and Italian aliens would "produce repercussions throughout the nation," and Attorney General Biddle was contending that any evacuation of these groups would "have the gravest consequences to the nation's economic structure and war morale since it would be bound to produce confusion and disaffection among persons of those nationalities." 12/

Consequently, Lt. General Hugh A. Drum, commanding general of the Eastern Defense Command, was informed that there was to be no evacuation within his command. General Drum's statement on April 27, 1942, regarding the establishment of military zones and approved conduct therein contained the announcement that "Mass evacuation is not contemplated. Instead thereof, such evacuations as may be considered necessary will be by selective processes applicable to enemy aliens, or to other persons deemed dangerous to remain at large within the area or within its zones." 13/

However, General DeWitt still recommended mass evacuation of German and Italian aliens on the grounds of military necessity. If his recommendations

(continued) National Defense Migration. National Defense Migration; Preliminary Report and Recommendations on Problems of Evacuation of Citizens and Aliens from Military Areas. House Report No. 1911, 77th Cong., 2d sess., March 19, 1942. Washington, U.S. Govt. Print. Off., 1942. p. 25. See Ibid., p. 21-16 for reasoning of committee regarding a "flexible policy" for German and Italian aliens. The same committee reported that there were, according to the 1940 census, 126,947 Japanese, foreign-born and citizen, in the United States. Most of the Japanese were concentrated on the West Coast with 88.5 percent residing in the States of California, Oregon, and Washington. In contrast, German aliens amounted to 314,105, and Italian aliens, 690,551. When the number of German and Italian foreign-born naturalized citizens is included, the figure approximates four million. See Ibid., 91-92, 230.

12/ Conn, Stetson, Guarding the United States, p. 145.

13/ Tolan Committee; Findings and Recommendations, p. 36.

were not to be adopted, DeWitt requested "definite instructions to the contrary that would exempt him from all responsibility for the consequences." 14/

In the meantime, the House Select Committee investigating the evacuation of enemy aliens issued its fourth report in which various recommendations were made for the treatment of aliens. The committee also reiterated a statement made in a previous report regarding the evacuation of German and Italian aliens:

If the Japanese evacuation creates serious questions, it is because an entire group out of our population is being bodily removed, family by family. This is in the nature of an exodus of a people. The numbers involved are large, but they are by no means as large, for the whole country, as those who will be involved if we generalize the current treatment of the Japanese to apply to all Axis aliens and their immediate families. Indeed, this committee is prepared to say that any such proposal is out of the question if we intend to win this war. 15/

On May 15, 1942, General DeWitt was informed that there was to be no "collective evacuation of German and Italian aliens from the West coast or from anywhere else in the United States." The War Department would, however, authorize individual exclusion orders "against both aliens and citizens under the authority of Executive Order 9066." 16/ In a letter to DeWitt from Assistant Secretary of War John J. McCloy on May 20, McCloy told DeWitt that in approving evacuation under Executive Order 9066, "both the President and

14/ Conn, Stetson, Guarding the United States, p. 146. On May 5, 1942, President Roosevelt wrote to Secretary of War Stimson that on the subject of evacuation of German and Italian aliens, he was "inclined to think this may have a bad effect on morale." See Polenberg, Richard. War and Society: The United States 1941-1945. New York, J.B. Lippincott Co., 1972. p. 61.

15/ Tolan Committee; Findings and Recommendations, p. 31.

16/ Conn, Stetson, Guarding the United States, p. 146.

the Secretary of War did so with the expectation that the exclusions would not reach such numbers We want, if at all possible, to avoid the necessity of establishing additional relocation settlements." 17/

Thus there was no mass evacuation of German and Italian aliens in the United States during World War II, despite the fact that the Italians were more numerous than the Japanese on the West Coast and the Germans more so on the East Coast. For example, New York State alone contained more German aliens than the number of Japanese, both aliens and citizens, on the whole Pacific Coast. 18/ Part of the reason for this lack of action was the sizeable logistical problem it would have imposed at a critical period of the war. More important was the inability of the American people in World War II (in contrast to World War I) to fear "that people of German or Italian descent, unlike the Japanese-Americans, owed a divided allegiance." 19/ Indeed, as early as November 1942, Attorney General Biddle announced that Italian aliens were no longer considered "aliens of enemy nationality." 20/ As one

17/ Weglyn, Michi. *Years of Infamy: The Untold Story of America's Concentration Camps*. New York, William Morrow and Company, Inc., 1976. p. 291. In June 1942, President Roosevelt assured Herbert Lehman, then Governor of New York, "that he was 'keenly aware of the anxiety that German and Italian aliens living in the United States must feel as the result of the Japanese evacuation of the West Coast.' Would Lehman assure them 'that no collective evacuation of German or Italian aliens is contemplated at this time?'" See Burns, Roosevelt: *The Soldier of Freedom*, p. 268. It was the opinion of Attorney General Biddle in 1943 that Executive Order 9066 "was never intended to apply to Italians and Germans." See Michi, *Years of Infamy*, p. 73.

18/ Grodzins, Morton. *Americans Betrayed: Politics and the Japanese Evacuation*. Chicago, University of Chicago Press, 1949. p. 173.

19/ Polenberg, *War and Society*, p. 41.

20/ *Ibid.*, p. 42. Earlier in the year, Roosevelt rejected the idea that the Italians in the United States constituted a threat and dismissed them as "a lot of opera singers." See Burns, Roosevelt: *The Soldier of Freedom*, p. 214.

historian of wartime America concluded, "Since Germans and Italians were numerous, politically influential, well assimilated and widely dispersed, Roosevelt and Biddle believed that it would be unwise to take action against them." 21/

Nevertheless, selective individual exclusions were carried out, based on information from the FBI and the results of individual hearings by a board of army officers. Anyone judged "potentially dangerous" was ordered to leave the area. Grounds for exclusion included pre-Pearl-Harbor ties with German or Italian organizations and expressions of "admiration, sympathy, or loyalty to Hitler, Mussolini, the Nazi Party, Fascism, or the Fatherland." 22/ For example, in the Western Defense Command, from August 1942 to July 1943, 174 individuals, including native-born citizens and enemy aliens, were given exclusion orders. Many of those excluded were German-born or Italian-born American citizens. Similar action was taken in the same period by the Eastern and Southern Defense Commands. In these instances, 59 and 21 persons, respectively, were excluded from the coastal area. 23/

Detention of enemy aliens was originally under the control of the Army. However, in early 1943, operation of the camps was transferred to the Immigration and Naturalization Service. By the end of the year, there were

21/ Polenberg, *War and Society*, p. 61.

22/ Barnhart, Edward N. *The Individual Exclusion of Japanese-Americans in World War II*. *Pacific Historical Review*, v. 29, May 1960. p. 113.

23/ *Ibid.*, p. 113-114. In at least one case in 1943, that of a German-born American citizen in Philadelphia who had close ties with two German organizations, an order to leave the area was refused. This position was ultimately upheld later in the year by a Federal judge who ruled that the "Army lacked the right to exclude persons arbitrarily from coastal defense areas under present circumstances." *New York Times*, May 8, 1943, p. L 17, and August 21, 1943, p. 13.

sixteen internment camps scattered throughout the United States, most of them located in Texas, New Mexico, California, Montana, and North Dakota. One camp, Crystal City, Texas, was used solely for the internment of families. 24/

By July 1942, some 7,469 aliens had been taken into custody. However, many were released or paroled after investigation so that only 1,692 were actually interned. 25/ The peak number of inhabitants of the camps appears to have been reached at the beginning of 1944 when 9,341 aliens were being held. By the end of the year, only 6,238 remained in custody. 26/ Exact numbers are difficult to ascertain since in many cases they did not include German and Italian seamen interned when their ships were caught in American waters after the declaration of war, several thousand enemy aliens from Latin American, and a similar number awaiting deportation.

Within a few years after the war, all internment camps were phased out. Some "detention" facilities were still maintained, however, for aliens awaiting disposition of various legal actions. The last internment camp, the family facility at Crystal City, Texas, closed on February 27, 1948. 27/

24/ U.S. Immigration and Naturalization Service. Annual Report. 1943. Washington, U.S. Govt. Print. Off., 1943. p. 14-15.

25/ Ibid., Annual Report. 1941, p. 26-27.

26/ Ibid., Annual Report. 1942, p. 21. For descriptions of various camps see Harrison, Earl G. Civilian Internment--American Way. Survey Graphic, v. 33, May 1944. p. 229-233, 270. Some members of the German American Bund were denaturalized and spent time in the camps. See Diamond, Sander A. The Nazi Movement in the United States, 1924-1941. Ithaca, Cornell University Press, 1974. p. 345-346; and Bell, Leland V. The Failure of Nazism in America: The German American Bund, 1936-1941. Political Science Quarterly, v. 85, December 1970. p. 585-599.

27/ U.S. Immigration and Naturalization Service. Annual Report. 1948. p. 19-21. Several camps closed during the war. For example, the Kenedy Internment Camp, Kenedy, Texas, closed in September 1944, the Kooskia Internment Camp, Kooskia, Idaho, closed in May 1945, and the Seagoville Internment Camp, Seagoville, Texas, closed in June 1945. See Ibid., Annual Report. 1945. p. 27.

EXECUTIVE ORDER--No. 9066

AUTHORIZING THE SECRETARY OF WAR TO PRESCRIBE MILITARY AREAS

WHEREAS the successful prosecution of the war requires every possible protection against espionage and against sabotage to national defense material, national defense premises, and national defense utilities as defined in Section 4, Act of April 20, 1918, 40 Stat. 533, as amended by the Act of November 30, 1940, 54 Stat. 1220, and the Act of August 21, 1941, 55 Stat. 655 (U. S. C., Title 50, Sec. 104):

NOW, THEREFORE, by virtue of the authority vested in me as President of the United States, and Commander in Chief of the Army and Navy, I hereby authorize and direct the Secretary of War, and the Military Commanders who he may from time to time designate, whenever he or any designated Commander deems such action necessary or desirable, to prescribe military areas in such places and of such extent as he or the appropriate Military Commander may determine, from which any or all persons may be excluded, and with respect to which, the right of any person to enter, remain in, or leave shall be subject to whatever restrictions the Secretary of War or the appropriate Military Commander may impose in his discretion. The Secretary of War is hereby authorized to provide for residents of any such area who are excluded therefrom, such transportation, food, shelter, and other accommodations as may be necessary, in the judgment of the Secretary of War or the said Military Commander, and until other arrangements are made, to accomplish the purpose of this order. The designation of military areas in any region or locality shall supersede designations of prohibited and restricted areas by the Attorney General under the Proclamations of December 7 and 8, 1941, and shall supersede the responsibility and authority of the Attorney General under the said Proclamations in respect of such prohibited and restricted areas.

I hereby further authorize and direct the Secretary of War and the said Military Commanders to take such other steps as he or the appropriate Military Commander may deem advisable to enforce compliance with the restrictions applicable to each Military area hereinabove authorized to be designated, including the use of Federal troops and other Federal Agencies, with authority to accept assistance of state and local agencies.

I hereby further authorize and direct all Executive Departments, independent establishments and other Federal Agencies, to assist the Secretary of War or the said Military Commanders in carrying out this Executive Order, including the furnishing of medical aid, hospitalization, food, clothing, transportation, use of land, shelter, and other supplies, equipment, utilities, facilities, and services.

This order shall not be construed as modifying or limiting in any way the authority heretofore granted under Executive Order No. 8972, dated December 12, 1941, nor shall it be construed as limiting or modifying the duty and responsibility of the Federal Bureau of Investigation, with respect to the investigation of alleged acts of sabotage or the duty and responsibility of the Attorney General and the Department of Justice under the Proclamations of December 7 and 8, 1941, prescribing regulations for the conduct and control of alien enemies, except as such duty and responsibility is superseded by the designation of military areas hereunder.

THE WHITE HOUSE,
February 19, 1942.

SOURCE: Tolan Committee, Findings and Recommendations, p. 314-315.

APPENDIX B: PUBLIC LAW 503, MARCH 21, 1942

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.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That whoever shall enter, remain in, leave, or commit any act in any military area or military zone prescribed, under the authority of an Executive order of the President, by the Secretary of War, or by any military commander designated by the Secretary of War, contrary to the restrictions applicable to any such area or zone or contrary to the order of the Secretary of War or any such military commander, shall, if it appears that he knew or should have known of the existence and extent of the restrictions or order and that his act was in violation thereof, be guilty of a misdemeanor and upon conviction shall be liable to a fine of not to exceed \$5,000 or to imprisonment for not more than one year, or both, for each offense.

Approved, March 21, 1942.

March 21, 1942
[H. R. 6748]
[Public Law 503]

Violation of military
restrictions.

Penalty.

SOURCE: 56 Stat. 173.

APPENDIX C: CIVILIAN EXCLUSION ORDER NO.]

CIVILIAN EXCLUSION ORDER No. 1

HEADQUARTERS, WESTERN DEFENSE COMMAND AND FOURTH ARMY,
Presidio of San Francisco, California, March 24, 1942.

1. Pursuant to the provisions of Public Proclamations Nos. 1 and 2, this headquarters, dated March 2, 1942, and March 16, 1942, respectively, it is hereby ordered that all persons of Japanese ancestry, including aliens and nonaliens, be excluded from that portion of Military Area No. 1 described as "Bainbridge Island," in the State of Washington, on or before 12 o'clock noon, P. W. T., of the 30th day of March 1942.

2. Such exclusion will be accomplished in the following manner:

(a) Such persons may, with permission, on or prior to March 29, 1942, proceed to any approved place of their choosing beyond the limits of Military Area No. 1 and the prohibited zones established by said proclamations or hereafter similarly established, subject only to such regulations as to travel and change of residence as are now or may hereafter be prescribed by this headquarters and by the United States Attorney General. Persons affected hereby will not be permitted to take up residence or remain within the region designated as Military Area No. 1 or the prohibited zones heretofore or hereafter established. Persons affected hereby are required on leaving or entering Bainbridge Island to register and obtain a permit at the Civil Control Office to be established on said Island at or near the ferryboat landing.

(b) On March 30, 1942, all such persons who have not removed themselves from Bainbridge Island in accordance with Paragraph 1 hereof shall, in accordance with instructions of the Commanding General, Northwestern Sector, report to the Civil Control Office referred to above on Bainbridge Island for evacuation in such manner and to such place or places as shall then be prescribed.

(c) A responsible member of each family affected by this order and each individual living alone so affected will report to the Civil Control Office described above between 8 a. m. and 5 p. m. Wednesday, March 25, 1942.

3. Any person affected by this order who fails to comply with any of its provisions or who is found on Bainbridge Island after 12 o'clock noon, P. W. T., of March 30, 1942, will be subject to the criminal penalties provided by Public Law No. 503, 77th Congress, approved March 21, 1942, 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 Zone", and alien Japanese will be subject to immediate apprehension and internment.

J. L. DE WITT,
Lieutenant General, U. S. Army,
Commanding.

SOURCE: Tolan Committee, Findings and Recommendations, p. 332-333.

APPENDIX D: STATEMENT OF LT. GEN. HUGH A. DRUM

TEXT OF GENERAL DRUM'S STATEMENT

The text of the statement by Lt. Gen. Hugh A. Drum, commanding general of the Eastern Defense Command and First Army, with headquarters at Governors Island, announcing preliminary plans for the establishment, at an early date, of an Eastern Military Area along the Atlantic coast follows:

The President in Executive Order 9066, dated February 19, 1942, authorized and directed military commanders whom the Secretary of War designates, whenever the designated commander deems such action necessary or desirable, to prescribe military areas in such places and of such extent as the appropriate military commander may determine, from which any or all persons may be excluded, and with respect to which the right of any person to enter, remain in or leave shall be subject to whatever restrictions the Secretary of War or the appropriate military commander may impose in his discretion. All Federal departments and agencies are directed to assist the Secretary of War and military commanders in the execution of said Executive order and authority is granted to accept the assistance of State and local agencies.

The Secretary of War has designated Lt. Gen. Hugh A. Drum, commanding the Eastern Defense Command and First Army, who is charged with the defense of the eastern seaboard, to designate military areas. General Drum will designate the entire Eastern Defense Command as a military area, called the Eastern Military Area. The Eastern Military Area includes the New England States and the Middle and South Atlantic States and Florida west of the Apalachicola River, and the District of Columbia. The object of prescribing a military area is to facilitate control so as to prevent subversive activities and aid being given the enemy, such as by lighting along our coasts. The military area system is an important and necessary adjunct to the defense of our eastern seaboard.

The functional subdivisions for control will be the four existing corps areas in the military area—namely, the First Corps Area, with headquarters at Boston, Mass.; the Second Corps Area, with headquarters at Governors Island, N. Y.; the Third Corps Area with headquarters at Baltimore, Md.; and the Fourth Corps Area, with headquarters at Atlanta, Ga.

Control throughout the area will be decentralized in most particulars to the corps areas and will be maintained primarily by means of a system of definitely described zones. The Department of Justice together with the Federal Bureau of Investigation and other Federal agencies will assist in the execution and enforcement of the regulations prescribed. State and local officials will be requested to assist. A zone embraces generally a public utility; a military, naval, or civil installation; a commercial or defense facility; a territorial region, or a strip of coast line or water front, or other place, whose individual importance to the national defense and security will vary in accordance with local or other conditions.

The plan embodied in the administration of the Eastern Military Area contemplates the control of conduct within the area on the part of enemy aliens, as well as of all other persons, so as to safeguard the national security, and will be effected by means of general restrictions and orders issued from the headquarters of the Eastern Defense Command.

The fundamental policy embodied in the plan is not to interfere in any manner whatever with the lives of the great mass of loyal Americans in the States included in the military areas, or with the economic life of the area, but it does express the determination of the military authorities to prevent any enemy sympathizer, whether alien enemy, alien of other nationality, or disloyal American, if any exist, from committing any act detrimental to the national security. Those persons whose conduct reflects their patriotic motives will not be affected by this administration.

Enforcement of restrictions, and consequently control of the area, will be accomplished by the application of penalties provided by law for violations of the restrictions and orders of the commanding general. These include exclusion from the area, internment of aliens, prosecutions under Public Law No. 503 of March 21, 1942, and evacuations. However, regulation or control of conduct is the keynote of the plan, rather than evacuations.

Mass evacuation is not contemplated. Instead thereof, such evacuations as may be considered necessary will be by selective processes applicable to enemy aliens, or to other persons deemed dangerous to remain at large within the area or within its zones.

As an initial step in the enforcement of the restrictions to be prescribed for the military area, the Fourth Corps Area commanders indicated above have been directed forthwith to assume control over all lighting on the seacoast so as to prevent the silhouetting of ships and their consequent destruction by enemy submarines.

In accordance with the provisions of the President's Executive order the governors of all the States and civil officials have been requested to assist the corps area commanders in the enforcement of the necessary restrictions.

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PBS/rla

JACL REDRESS PROPOSAL
SUMMARY

The JACL National Committee for Redress is submitting to the Commission on Wartime Relocation and Internment of Civilians, a proposal recommending methods of determining compensatory restitution for the Commission's consideration and deliberations regarding the issue of monetary compensation. While the JACL maintains its position that those individuals affected by E.O. 9066 and other associated acts of the government in 1942-1946 should be eligible for some measure of compensation, the intent of the proposal is not primarily to advocate our position on the issue but to provide our recommendations to the Commission in its deliberations.

We are recommending to the Commission that a determination of appropriate remedies should take into full consideration actual real properties lost, as well as the loss of income and wages during the period 1942-1946. We have suggested specific methods of determining these factors.

In calculating intangible damages, such as loss of freedom, pain and suffering, and the like, we have recommended that legal precedents related to punitive or exemplary damages be reviewed fully for a determination of appropriate awards to be considered.

Because we recognize that it is not likely at this time that the Congress would be willing to appropriate an aggregate total amount as full compensation, we have suggested that the Commission recommend a phased appropriation by the Congress over a period of five years rather than at one time; and that such appropriations be placed into trust with a federally chartered corporation or foundation, from which disbursements to those deemed eligible by the Commission can be made. It is our belief that such an arrangement would be received more favorably by the Congress and that it would better serve the varying demands of the Japanese American community.

In our continuing efforts to provide any assistance we can to the Commission, we have provided them with our recommendations for their consideration.

REDRESS PROPOSAL
TO THE
COMMISSION ON WARTIME RELOCATION AND INTERNMENT OF CIVILIANS

Submitted by

Minoru Yasui
Chairman
National Committee for Redress

The following is submitted to the Commission on Wartime Relocation and Internment of Civilians for consideration in attempting to determine methods of redress and reparations for the Evacuation of 1942-1946. The section provided herein delineates those factors which the National Committee for Redress of the Japanese Citizens League feels must be considered in deliberations on the question of redress.

1. FOREWARD:

For nearly four decades, the Japanese American Citizens League has been involved, in one form or another, in seeking a resolution to the wrongful expulsion and incarceration of American citizens of Japanese ancestry during World War II. Through the years since the Second World War, the redress issue so-called remained dormant while Japanese Americans attempted to gather their lives and to find their place once again in the mainstream of American society after their forced exodus in 1942.

Over ten years ago, the JAACL accepted the responsibility of examining the possible resolutions to the Evacuation and placed the issue as its primary commitment through the unified voice of its National Council. In 1978, when the redress issue had not received public acknowledgement even within the Japanese American community, the JAACL dared to raise it as a public issue and to bring it to the consciousness of America. And in so doing, we reaffirmed our commitment to seek the best solutions possible to what we long ago recognized to be a difficult question of redress.

After long and arduous examinations of possible remedies, indeed

after the compilation of years of studying the issue and possible resolutions, we offer our recommendations to the Commission on Wartime Relocation and Internment of Civilians for consideration in its deliberations on the issue of reparations, with the sincere hope that we might provide assistance in the difficult task facing the Commission. Because of our long involvement with this issue, we recognize the need to consider all facets of the issue--its history, its legal and constitutional implications, and the burdensome task of providing a just solution--and we also recognize that we cannot be uncompromising in attempting to articulate solutions. We have researched the problem and are keenly aware of the multitude of community demands--from the acceptance of a mere apology to direct individual compensation--but at the same time, we are well aware of the monumental task and fiscal responsibility facing the members of the United States Congress in these difficult days of our nation's economic plight. Therefore, we believe that our recommendations presented here offer not only a principled position but one which is pragmatic in its findings.

2. STATEMENT OF POSITION:

The National Committee for Redress of the Japanese American Citizens League reiterates its fundamental position that, although there are many forms of redress and remedies possible which would be acceptable to the Japanese American community, there must be substantial monetary reparations for those who underwent the traumatic and unparalleled evacuation and restrictions imposed during 1942-1946.

The Japanese American Citizens League recommends that sufficient monetary appropriations should be made by Congress to redress fully the damages that were inflicted upon 120,000 persons of Japanese ancestry during 1942-1946. Substantial and appropriate money amounts should be made available to individuals who suffered losses and damages because of the evacuation of 1942-1946,

as well as for community programs and projects as would tend to diminish and at least partially redress the enormous wrong which was imposed upon innocent persons by the United States government during 1942-1946.

Partial redress may be accomplished through the establishment of various community programs and projects authorized and funded by the United States government for victims of the Evacuation; there could be established various kinds of educational programs, scholarships, and means of constant reminders that an aberration of American democracy occurred during 1942-1946, so that the likelihood of repeating such massive, wholesale injustices by the government is reduced; there could be established memorials, designations of camp sites, and similar types of permanent remembrances; and there are many other kinds and types of redress that can and should be pursued.

3. ELIGIBILITY:

It is the JACL National Committee for Redress' position that in the words of the enabling legislation, Public Law 96-317, that those individuals and groups, as well as communities, who shall benefit or receive monetary reparations or be the beneficiaries of programs and projects authorized by appropriate legislation, must be those who were adversely "affected by Executive Order Numbered 9066, issued on February 19, 1942, and subsequent actions of the United States government."

The Commission should explicitly enumerate those classes or persons who would be so eligible.

4. FORMULA FOR DETERMINATIONS OF AMOUNTS:

It is first recognized that the Congress of the United States did in 1948 acknowledge that enormous losses were incurred by persons of Japanese ancestry who were forced by the U.S. military in 1942 to evacuate the West Coast. It is also a matter of record that although

\$400 million in property was lost by persons of Japanese ancestry in 1942, only approximately \$38 million was recovered by such persons under the Evacuation Claims Act of 1948, because of problems of documentary proofs and evidence, stringent legal requirements to show losses, and basically, because the Act provided for monetary restitution of physical properties only.

It is also recognized and noted that in the settlement of individual claims under the Evacuation Claims Act of 1948, all those receiving payments thereunder were required to sign a waiver indicating that such individuals would forever waive any claim or loss against the United States government.

Remedial legislation would be needed to negate or eliminate such waiver.

Although the Evacuation Claims Act of 1948 did make an effort to restore to the evacuees of 1942 some measure of compensation for property losses, there was no provision for intangible losses, such as deprivation of liberty, for loss of earnings or wages, pain and suffering, or other non-physical damages or losses.

The Japanese American Citizens League believes that these elements must be fully considered. It is proposed that the formula outlined below be followed in attempting to determine such losses:

(a) Property Losses:

Inasmuch as it is recognized that the Evacuation Claims Act of 1948 probably provided for only about 8% of the losses which actually occurred, there should be provided appropriate mechanisms to recover losses of property which were not claimed in 1948, *et. seq.*

Moreover, it should be pointed out that the figure of \$400 million

which was used as an estimate of physical property lost by persons of Japanese ancestry was probably an extremely low figure. We believe that the \$400 million estimate refers only to the properties owned by non-citizen Japanese residing within the region covered by the Federal Reserve Bank of San Francisco and does not take into consideration any of southern California or other areas outside the jurisdiction of the San Francisco office.

Immediately following December 7, 1941, the United States Treasury Department took measures to freeze all assets of Japanese nationals and Japanese corporations operating in the United States. Property reports required of individual Japanese nationals were filed under TFR-300 forms, and assets of Japanese corporations doing business in the United States were filed under TFBE-1 forms.

It is suggested that the Commission conduct a search to ascertain whether records of such TFR--00 and TFBE-1 forms are still available.

If such records are available, the Commission should then compile a tabulation of total assets owned by non-citizen Japanese in the United States on the West Coast in 1942. Once having determined the valuations of assets owned by non-citizen Japanese on the West Coast, differentiations can be made as to entities or individuals who were headquartered or actually in Japan at the outbreak of World War II. Obviously, those enemy alien Japanese who were domiciled (in a legal sense) in Japan prior to the outbreak of the war ought not to be entitled to recovery under any redress program recommended by the Commission.

However, assets owned by non-citizen Japanese persons or corporations domiciled in the United States at the outbreak of World War II should certainly be entitled to recovery.

Compilation of Assets of Japanese Americans in 1942:

(i) Non-citizen Japanese

As indicated above, through tracing of TFR-300 and TFBE-1 forms, the assets of non-citizen Japanese persons and corporations might be determined.

Further, as indicated, the often cited \$400 million estimate of property of Japanese Americans on the West Coast probably referred to only those Japanese aliens in the San Francisco region of the United States Federal Reserve Bank, and did not include non-citizen Japanese resident in other parts of the West Coast, and in particular in the Los Angeles area or of southern California.

However, if records of TFR-300's and TFBE-1's can be traced, data might be compiled for the Federal Reserve Bank regions in other areas, and in particular for Los Angeles and environs.

(ii) Japanese Americans (United States citizens)

Although it was indicated that the average of the Nisei in 1942 was only about 18 years of age, through the U.S. Census figures of 1940, the numbers of Nisei over the age of twenty-one can be determined. Occupational breakdowns are ascertainable through various governmental publications.

Land records and leasehold interests of Nisei are obtainable on a state-by-state and county-by-county basis through assessor's records.

An appropriate method of calculating the value of tangible assets of United States citizens of Japanese ancestry as of 1942 might not be feasible.

However, it might be possible to review the claims submitted under the Evacuation Claims Act of 1948 in order to gain an approximation or valid estimate of aggregate assets owned or claimed by United States citizens of Japanese ancestry in 1942.

(iii) **Aggregate Valuations of Property:**

Perhaps the most feasible procedure would be to commission a research project to ascertain total physical property losses suffered by persons of Japanese ancestry on the West Coast because of the evacuation of 1942.

We know that such studies have been done in the Sacramento, California, area as well as in the Long Beach, California, area. It is our understanding that the study of the Long Beach area estimated losses exceeding \$800 million.

It is our belief that appropriate and accurate calculations of losses and damages suffered by persons of Japanese ancestry in 1942-1946 will amount to more than several billions of dollars, at 1942 values.

The Commission should undertake research on this most important aspect of pecuniary losses and damages.

(b) **Loss of Earnings and Wages:**

Inasmuch as the Evacuation Claims Act of 1948 considered losses and/or damages related to physical properties only, it would seem only appropriate that computations should be made as to loss of earnings and wages of 120,000 people.

Obviously, calculations should be made only as to those individuals whose earning capabilities were abridged by the Evacuation in 1942.

Moreover, there should be taken into consideration those individuals

who were earning substantial incomes prior to the Evacuation, but because of dislocation from their homes and usual place of work, had to accept lower earnings and/or wages. A method to calculate such losses may not be possible but this factor should be considered.

As to able-bodied individuals, or others who were actually earning incomes in 1942, the following formula might be helpful:

Average income for family of four:

U.S. Census figures for 1940 would indicate the average income for families of four persons. If the U.S. Census figures do not so indicate, the Department of Labor statistics or the U.S. Department of Commerce statistics should be examined.

Based upon WRA statistics, adjustments can be made for family size, numbers of individuals who were earning incomes prior to 1942, and other pertinent data.

The earning capacity of individuals who were affected by the military orders requiring evacuation could thus be calculated.

Average stay in WCCA/WRA camps:

WRA figures can indicate the average stay of individuals and families in the WCCA/WRA camps.

Multiplying the average annual income of individuals or families by the average length of stay in camps would give a fairly accurate figure of total loss of earnings and income.

(Average length of stay in camps is included in the above formula because there are those who bitterly complain that "other" Americans had to suffer similar wartime exigencies and dislocations. The above formula would calculate only that factor that does not apply to all other Americans).

Further, it is noted that "average stay" in WCCA/WRA camps does exclude consideration of those who earlier left the camps to work in the sugar beet fields, or went off to college, or volunteered for the Army, or relocated permanently to non-restricted areas.

A total loss of earnings and wages could be fairly computed for the entire group of evacuees, who went to the camps, but would not take into consideration those who "voluntarily" evacuated prior to the issuance of military orders for the particular area in which they lived at the outbreak of war.

This is not to suggest, however, that those who left the WCCA/WRA camps early, or those who "voluntarily" evacuated are not to be considered among those eligible for compensation. Presented here are simply methods of calculating average annual incomes with average length of stay in camps.

(c) Loss of Freedom (Incarceration):

There does not appear to be any set standards to compute value of loss of freedom (i.e., false imprisonment). However, we refer the Commission to the "Legal Remedies" section, contained herein, for relevant information regarding false imprisonment.

It is suggested that the Commission utilize computer-based research as to average awards in federal cases involving false imprisonment or restraint of liberty.

Whether an individual of Japanese ancestry in the United States was confined to a WCCA or WRA camp or not, it is a fact that movement of such individuals were restricted -- over and above restrictions imposed upon other Americans.

Whether an individual of Japanese ancestry had a business or other

property interests in a restricted zone or area, such individual could not take care of such businesses or interests, because of military orders issued pursuant to Executive Order Number 9066.

Computations for damages because of loss of freedom should be based upon a study and research of federal cases, in order to arrive at an average award per person.

Once having arrived at an individual award per person, such sum should be multiplied by the numbers of individuals who were actually placed into WCCA or WRA camps in 1942-1946, the total of which would serve as the average amount to be awarded to those deemed eligible.

(d) Damages for pain and suffering, humiliations, frustrations, psychological and social damages:

Again, it would appear that there are no standards by which such sums could be determined, and we again refer your attention to the "Legal Remedies" section.

It is again suggested that the Commission authorize a computer-based study and research be conducted of federal cases wherein punitive or exemplary damages have been awarded.

An average individual award can be calculated, and such figure applied to all persons of Japanese ancestry who were resident in the Western Defense Command, as of February 19, 1942.

(e) Damages to community structures and community life:

There does not seem to be any practical method of determining losses and damages to community structures and community life of Japanese Americans on the West Coast during 1942-1946, but we refer your attention to the "Legal Remedies" section.

Research might be conducted as to aspects of the West German govern-

ment in making reparations payments for the holocaust in Europe during World War II.

It is immediately emphasized and admitted that the experiences of Japanese Americans in the United States during World War II in no way is comparable to the extermination policies of Nazi Germany during World War II. However, methodologies utilized to compute damages to social institutions and cultural structures might be most illuminating for purposes of determining losses incurred by Japanese Americans in the United States during 1942-1946.

5. CONGRESSIONAL APPROPRIATIONS:

While it is recognized that the computations of specific aspects of losses and damages as proposed above are considerable--such as property losses and damages, loss of earnings and income, aspects of pain, suffering, punitive or exemplary damages, loss of freedom and liberty--such information is necessary and requisite for a fair and full consideration by the Congress.

However, because it is not likely at this time that the Congress would be willing to appropriate an aggregate total amount as full compensation for such losses as determined by the Commission, it is suggested that the Commission consider a recommendation of phased appropriations by the Congress over a period of five years rather than at one time; that the Commission should urge and recommend to the Congress and the President that appropriate enabling legislation be enacted to carry out such a long range method of appropriations and payment.

Aggregate totals are envisioned, rather than specific amounts based upon claims of individuals. Payment to individuals, to groups and community programs or projects are hereinafter set forth and discussed, as follows:

6. METHODS OF PAYMENT:

(a) Federally chartered Corporation or Foundation:

It is urged that the Commission recommend to the Congress that a federally chartered corporation or foundation be created, to which appropriations would be made by Congress.

The funding of such corporation or foundation would be a responsibility of Congress, on a continuing basis. Legislative guidelines for the establishment, composition, governance and operations of such corporation or foundation could be enacted by Congress.

(b) Disbursement of Funds:

Such corporation or foundation would be charged with the responsibility of disbursing funds appropriated by Congress to the stated beneficiaries.

Because of the age of Issei who underwent the evacuation experience of 1942-1946, it is suggested that first priority of payments should be made to such Issei;

A concomitant priority might be community programs and projects as would specifically benefit the aged Issei and the now growing older Nisei population;

The next priority should certainly be for those Nisei who are now at the age of 60 years or more;

A third priority might be for any other individual affected by the issuance of Executive Order Number 9066;

A fourth priority might be for all other community programs and projects that are authorized and approved by the corporation or foundation;

And finally, the lowest priority might be given to those other worthwhile projects as determined to be appropriate by the corporation or

foundation.

(c) Allocation of Funds:

In order to assure equitable distribution of such funds, it might be required that funds should be allocated on a percentage basis, such as, perhaps:

The first 50% for five years for Issei who underwent the evacuation experience;

The next 25% for older Nisei now over the age of sixty years, who similarly underwent evacuation;

The next 15% for all other individuals;

The remaining 10% for all other community programs and projects.

Such formula might be in force for the initial five years, and the percentages and priorities could be changed thereafter as necessary or desirable. (It is anticipated that Issei living after the next five or ten years would be a most negligible number).

Changes of such priorities or allocations would presumably be made by an appropriate Board of the corporation or foundation, from time to time, as necessary or desired.

7. CONCLUSION:

The discussions hereinabove set forth relate only to monetary redress, aspects of how to determine losses and damages, possibilities of methods of appropriating and disbursing funds, and is limited to these aspects only.

It is obvious that there may well be other appropriate remedies, and we urge that the Commission consider all such possibilities, not to the exclusion of the suggestions made herein.

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An award winning documentary film by Bob Nakamura. Through the use of live action footage of the present and the use of still photographs of the past, this film depicts a young Nisei's memories of his boyhood spent in an United States concentration camp during World War II.

16mm Color. Running time: 16 minutes

Sale: \$176.00 (15% discount to JAACL members)

Rental: \$17.50 plus postage

WORLD WAR II EVACUATION NOTICE

A reprint of the now infamous Civilian Exclusion Order No. 33, which began the removal of "all persons of Japanese ancestry" from the West Coast during WWII. Reprinted from an original document (14 x 23 on white paper stock).

50¢ each. In lots of 100--25¢ each. (Minimum order \$5.00)

AMERICA'S CONCENTRATION CAMPS

A large display of historical photographs which recounts the World War II experience of 110,000 Japanese Americans. This exhibit which stands over 7 feet tall is made up of 64 photographs mounted on large wooden stacking cubes. The cubes pack into the base for easy transporting. So far, three exhibits are circulating on the West Coast.

Sale: \$500.00 plus shipping. For rental prices or additional information, reviews, photographs of the display, etc., write to Bob Nakamura.

WORLD WAR II EVACUATION BOOKLET

"American Concentration Camps", an illustrated general information booklet by Norman Nakamura on the relocation of Japanese Americans. This booklet is a summary of existing literature and is aimed at a broad general readership.

8-1/2 x 11 format. 16 pages. Illustrated with photographs, 30¢ each.
(Minimum order \$6.00)

CATALOG OF THE BANCROFT COLLECTION

A catalog on "The Bancroft Library Collection of WRA Photographs on the Japanese American Internment and Resettlement". It describes the viewing and ordering procedures for photographs in the Bancroft collection; in addition, the catalog offers a comprehensive listing of selected photographs from the total 4,000-5,000 photographs in the collection. Prints of many of these historical photographs can be ordered by mail.

\$3.00 per copy.

CONCENTRATION CAMP POSTER

A three color silk screen poster which reads "America's Concentration Camps" and utilizes in-camp group photographs to illustrate the injustice of the entire incident.

22 x 28 on heavy poster stock. \$2.00 each. (Minimum order \$6.00)

Make checks payable to: Visual Communications Committee, JACL

For further information write to:

Mr. Bob Nakamura, Chairman
Visual Communications Committee
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Los Angeles, California 90016

Telephone: (213) 733-5941

N.B. Literally, hundreds of pamphlets and thousands of articles have now been published concerning the wartime treatment of Japanese Americans, not to mention the thousands of references in various books and documentaries of World War II. Many articles of more recent date comment on the unprecedented degree of acceptance of Japanese Americans today. These references may be identified in the several directories and catalogs in the various public and college libraries in this country. They are much too numerous to be included in this selected bibliography.

Probably the most complete and authoritative information regarding Japanese Americans is to be found in the Pacific Citizen, a weekly membership publication of the Japanese American Citizens League (JACL) which has been published since before World War II.

It may also be of interest that the University of California Los Angeles (UCLA), in cooperation with the JACL, is currently engaged in research involving the Japanese in America through the 1865-1965 century, with the view of publishing definitive historical and sociological tracts and volumes on three generations of Japanese in the United States--the Issei (immigrants), the Nisei (first generation, American-born), and the Sansei (second generation, American-born). Publication is scheduled to begin next year (1972).

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December 29, 1971

CHRONOLOGY OF JAPANESE INTERNMENT
AND RELATED EVENTS

1. 1913-- Alien Land Bill prohibits Japanese aliens from owning land in California.
 2. August 18, 1941-- Rep. John Dingell of Michigan recommends a "hostage reserve" plan. Result is the arrest of Japanese in Bolivia, Peru, Costa Rica, and other part of Latin America.
 3. October-November, 1941-- Munson Report states that there is no "Japanese problem". Report finds no evidence to suspect disloyalty of Japanese-Americans, and describes them as manifesting a "pathetic eagerness to become Americans."
 4. December 7, 1941-- Pearl Harbor
 5. January 5, 1942-- General DeWitt tells James Rowe, Asst. Attorney General, that "neither the War Dept. nor the Army desire to undertake responsibility for the alien enemy program in the continental United States.
 6. January 25, 1942-- Roberts Commission alleges that espionage had taken place in Hawaii before Pearl Harbor attack.
 7. January 30, 1942-- NY Times with the first public announcement of restricted areas for enemy alien removal.
 8. February 3, 1942-- Gen. DeWitt sends first tentative recommendation to evacuate all Japanese to the War Dept.
 9. February 4, 1942-- Stated position of the War Dept. that it is against evacuation.
 10. February 4, 1942-- Colonel Bendetsen's belief that Japanese-American citizens would have to be evacuated.
 11. February 5, 1942-- Senator Sheridan Downey makes statement opposing evacuation. This is done at the request of Attorney General Biddle.
 12. February 11, 1942-- Roosevelt gives Sec. Of War Stimson approval for mass evacuation.
 13. February 13, 1942-- Tolan Committee recommends that mass evacuations take place to the president. Also a west coast delegation led by Leland Ford, John Costello, A.J. Elliot and Jack Z. Anderson, pass resolution demanding mass evacuation of Japanese-Americans.
 14. February 17, 1942-- Justice Dept. believes that power and authority for evacuation should be vested in the Sec. of War.
 15. February 19, 1942-- Executive Order No. 9066.
 16. March 2, 1942-- Gen. DeWitt issues Public Proclamation No. 1. Restrictions put on aliens and citizens, while period of voluntary evacuation begins.
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17. March 18, 1942-- Ex. Order 9102 establishes War Relocation Authority (WRA) to effectuated program for removal of persons identified by Ex. Order 9066.
18. March 21, 1942-- Public Law 77-503 enacted by Congress: violations of Ex. Order 9066 subject to misdemeanor charges, where fine not to exceed \$5000 and/or imprisonment of one year.
19. March 22, 1942-- First large group of Japanese-Americans move to Manzanar.
20. March 24, 1942-- Gen DeWitt orders evacuation of all Japanese-Americans.
21. May 19, 1942-- Western Defense Command issue Civilian Restriction Order No.1 establishing assembly centers and camps in eight far western camps.
22. July 13, 1942-- Mitsuye Endo petitions for writ of habeas corpus.
23. August 7, 1942-- Western Defense Command announces completion of evacuation of 110,000 Japanese-Americans.
24. January 23, 1943-- Sec. Of War Stimson announces plans for formation of volunteer Japanese-American combat groups.
25. February 8, 1943-- Registration for males 17 and older for military recruitment.
26. Hirabayashi and Yasui cases handed down by Supreme Court. on June 21, 1943.
27. July 19, 1943-- Gen DeWitts final report on Japanese-American evacuation implies a mistrust of Japanese-Americans.
28. July 1, 1944-- Pres. Roosevelt signs Public Law 78-405 permitting U.S. citizens to renounce citizenship in time of war.
29. December 17, 1944-- effective Jan. 2, 1945, the War Dept. will revoke west coast mass evacuation orders.
30. December 18, 1944-- Announcement of the closing of camps.
31. September, 1945-- Western Defense Command rescinds all individual exclusion orders and restrictions against Japanese-Americans.
32. June 30, 1946-- War Relocation Authority program terminates
33. July 2, 1948-- 1 U.S. Code Congressional Service Japanese Evacuation Claims Act. Chapter 814 Public Law 886. Claims against U.S. to be filed before Jan. 3, 1950.

34. March 23, 1949-- Judge Louis E. Goodman of USDC in San Francisco cancelled all renunciations of citizenship that occurred during war and restored U.S. citizenship to 5000 Nisei. The 9th Circuit Court of Appeals, however, appealed decision.
35. August 17, 1951-- Japanese Evacuation Claims Act of July 2, 1948 amended to break logjam in processing the claims.
36. June, 1952-- Public Law 414 allows Japanese aliens to become naturalized U.S. citizens. This is the Walter-McCarran Immigration and Naturalization Act. This nullifies Oriental Exclusion Act of 1924.
37. July 9, 1956-- Japanese Evacuation Claims Act amended to expedite payment of remaining claims.
38. May 20, 1959-- Attorney General William P. Rogers announces completion of the review of renunciation cases. But no blanket amnesty was granted. 2031 of the renunciants had returned to Japan.
39. October 1, 1965-- Last claim settled. This is the Koda settlement.

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 War-time 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. 1631, 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.

○

Public Law 100-383
100th Congress

An Act

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

Aug. 10, 1988
[H.R. 442]

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

Human rights.

SECTION 1. PURPOSES.

50 USC app.
1989.

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;

Public
information.

(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;

Real property.

(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.

50 USC app.
1989a.

(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.

Civil Liberties
Act of 1988.

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

50 USC app.
1989b.

SEC 101. SHORT TITLE.

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

50 USC app.
1989b-1.

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.

50 USC app.
1989b-2.

(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.

50 USC app.
1989b-3.

(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.

50 USC app.
1989b-4.

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

clause limits to fund - makes discretion

(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.

Records.
Public information.

Appropriation authorization.

(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).

Claims.

(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).

Claims.

(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.

Records.

(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

50 USC app.
1989b-5.

Research and
development.
Education.
Public
information.

50 USC app.
1989b-6.

Public
information.

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.

50 USC app.
1989b-7.

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 War-time 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).

50 USC app.
1989b-8.
Contracts.

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.

Effective date.

TITLE II—ALEUTIAN AND PRIBILOF ISLANDS RESTITUTION

Aleutian and Pribilof Islands Restitution Act. Alaska.

SEC. 201. SHORT TITLE.

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

50 USC app.
1989c.

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.

50 USC app.
1989c-2.

(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.

Securities.

(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.

50 USC app. 1989c-3. Contracts.

SEC. 204. APPOINTMENT OF ADMINISTRATOR.

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

50 USC app. 1989c-4.

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 war-time 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.

Aged persons.
Handicapped persons.
Education.
Historic preservation.
Community development.

Records.

(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.

50 USC app.
1989c-5.

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.

Public lands.
National
Wildlife Refuge
System.
Conservation.
50 USC app.
1989c-6.

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.

Contracts.
50 USC app.
1989c-7.

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,

Effective date.

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.

50 USC app.
1989c-8.

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.

Mexico.
Indians.
50 USC app.
1989d.

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.

Approved August 10, 1988.

LEGISLATIVE HISTORY—H.R. 442:

HOUSE REPORTS: No. 100-278 (Comm. on the Judiciary) and No. 100-785 (Comm. of Conference).

CONGRESSIONAL RECORD:

Vol. 133 (1987): Sept. 17, considered and passed House.

Vol. 134 (1988): Apr. 20, considered and passed Senate, amended.

July 27, Senate agreed to conference report.

Aug. 4, House agreed to conference report.

WEEKLY COMPANION ON CONGRESSIONAL AND PUBLIC AFFAIRS

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RECOMMENDATIONS

In 1980 Congress established a bipartisan Commission on Wartime Relocation and Internment of Civilians, and directed it to:

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

The Commission fulfilled the first two mandates by submitting to Congress in February 1983 a unanimous report, Personal Justice Denied, which extensively reviews the history and circumstances of the fateful decisions to exclude, remove and then to detain Japanese Americans and Japanese resident aliens from the West Coast, as well as the treatment of Aleuts during World War II.* The remedies which the Commission recommends in this second and final part of its report are based upon the conclusions of that report as well as upon further studies done for the Commission, particularly an analysis of the economic impact of exclusion and detention.

*Personal Justice Denied (467 pp., \$8.50) is available from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402; Stock Number 052-003-00897-1. Telephone orders may be placed by calling (202) 783-3238. The report also discusses the removal from Hawaii of 1,875 residents of Japanese ancestry; the internment of Germans and Italians from various parts of the country as well as the exclusion of a small number of German American and Italian American citizens from particular areas pursuant to Executive Order 9066. Japanese Americans were also excluded from Alaska.

In considering recommendations, the Congress and the nation therefore must bear in mind the Commission's basic factual findings about the wartime treatment of American citizens of Japanese ancestry and resident Japanese aliens, as well as of the people of the Aleutian Islands. A brief review of the major findings of Personal Justice Denied is followed by the Commission's recommendations.

I. American citizens of Japanese ancestry and resident Japanese aliens

On February 19, 1942, ten weeks after the Pearl Harbor attack, President Franklin D. Roosevelt signed Executive Order 9066, empowering the Secretary of War and the military commanders to whom he delegated authority to exclude any and all persons, citizens and aliens, from designated areas in order to secure national defense objectives against sabotage, espionage and fifth column activity. Shortly thereafter, on the alleged basis of military necessity, all American citizens of Japanese descent and all Japanese resident aliens were excluded from the West Coast. A small number -- 5,000 to 10,000 -- were impelled to leave the West Coast on their own. Another 110,000 people were removed from the West Coast and placed in "relocation centers" -- bleak barrack camps in desolate areas of the Western states, guarded by military police.

People sent to relocation centers were permitted to leave only after a loyalty review on terms set, in consultation with the military, by the War Relocation Authority, the civilian agency that ran the camps. During the course of the war, approximately 35,000 evacuees were allowed to leave the camps to join the Army, attend college outside the West Coast or take whatever

private employment might be available to them. When the exclusion of Japanese Americans and resident aliens from the West Coast was ended in December 1944, about 85,000 people remained in government custody.

This policy of exclusion, removal and detention was carried out without individual review, and prolonged exclusion continued without adequate regard to evacuees' demonstrated loyalty to the United States. Congress, fully aware of the policy of removal and detention, supported it by enacting a federal statute which made criminal the violation of orders issued pursuant to Executive Order 9066. The United States Supreme Court also upheld exclusion in the context of war, but struck down the detention of loyal American citizens on the ground that this did not rest on statutory authority. All this was done despite the fact that no documented acts of espionage, sabotage or fifth column activity were shown to have been committed by any identifiable American citizen of Japanese ancestry or resident Japanese alien on the West Coast.

Officials took far more individualized, selective action against enemy aliens of other nationalities. No mass exclusion or detention, in any part of the country, was ordered against American citizens of German or Italian descent. The ethnic Japanese suffered a unique injustice during these years.

The Commission has examined the central events which created this history, especially the decisions that proved to be turning points in the flow of events.

The federal government contended that its decision to exclude ethnic Japanese from the West Coast was justified by "military necessity." Careful review of the facts by the Commission has not revealed any security or military threat from the West Coast ethnic Japanese in 1942. The record does not support the claim that military necessity justified the exclusion of the ethnic Japanese from the West Coast, with the consequent loss of property and personal liberty.

The decision to detain followed indirectly from the alleged military necessity for exclusion. No one offered a direct military justification for detention; the War Relocation Authority adopted detention primarily in reaction to the vocal popular feeling that people whom the government considered too great a threat to remain at liberty on the West Coast should not live freely elsewhere. The WRA contended that the initial detention in relocation centers was necessary for the evacuees' safety, and that controls on departure would assure that the ethnic Japanese escaped mistreatment by other Americans when they left the camps. It follows, however, from the Commission's conclusion that no military necessity justified the exclusion that there was no basis for this detention.

In early 1943, the government proposed to end detention, but not exclusion, through a loyalty review program designed to open the gates of the camps for the loyal, particularly those who volunteered to join the Army. This program represented a compromise between those who believed exclusion was no longer necessary and those who would prolong it. It gave some ethnic Japanese an opportunity to demonstrate loyalty to the United States most graphically -- on the battlefield. Particularly after detention, such means of proving loyalty should not have been necessary. Yet distinguished service of Japanese Americans

both in Europe and the Pacific had a profound impact in fostering postwar acceptance of the ethnic Japanese in America. It opened the gates of the camps and began to reestablish normal life for some people. But it did not grant the presumption of loyalty to all American citizens of Japanese descent. With no apparent rationale or justification, the loyalty review program failed to end exclusion from the West Coast of those who were found loyal.

By the spring of 1943, the highest civilian and military officials of the War Department had concluded that, after the loyalty review, military requirements no longer justified excluding American citizens of Japanese descent or resident aliens from the West Coast. The exclusion was imposed through orders based on the Secretary of War's authority; nevertheless, the War Department did not act to lift the ban. The extent to which these views were communicated to the White House is unclear, but twelve months later, in May 1944, a recommendation to end exclusion was put before the President at a Cabinet meeting. Nevertheless, exclusion ended only after the Presidential election in November, 1944. No plausible reason connected to wartime security supports this delay in allowing the ethnic Japanese to return to their homes, jobs and businesses -- although the delay meant, as a practical matter, that most evacuees continued to be confined in relocation camps for an additional eighteen months.

In sum, Executive Order 9066 was not justified by military necessity, and the decisions that followed from it -- exclusion, detention, the ending of detention and the ending of exclusion -- were not founded upon military considerations. The broad historical causes that shaped these decisions were race prejudice, war hysteria and a failure of political leadership.

Widespread ignorance about Americans of Japanese descent contributed to a policy conceived in haste and executed in an atmosphere of fear and anger at Japan. A grave personal injustice was done to the American citizens and resident aliens of Japanese ancestry who, without individual review or any probative evidence against them, were excluded, removed and detained by the United States during World War II.

The excluded people suffered enormous damages and losses, both material and intangible. To the disastrous loss of farms, businesses and homes must be added the disruption for many years of careers and professional lives, as well as the long-term loss of income, earnings and opportunity. Japanese American participation in the postwar boom was delayed and damaged by the losses of valuable land and growing enterprises on the West Coast which they sustained in 1942. An analysis of the economic losses suffered as a consequence of the exclusion and detention was performed for the Commission, Congress having extended the Commission's life in large measure to permit such a study. It is estimated that, as a result of the exclusion and detention, in 1945 dollars the ethnic Japanese lost between \$108 and \$164 million in income and between \$41 and \$206 million in property for which no compensation was made after the war under the terms of the Japanese-American Evacuation Claims Act. Adjusting these figures to account for inflation alone, the total losses of income and property fall between \$810 million and \$2 billion in 1983 dollars. It has not been possible to calculate the effects upon human capital of lost education, job training and the like.

Less tangibly, the ethnic Japanese suffered the injury of unjustified stigma that marked the excluded. There were physical illnesses and injuries directly related to detention, but the deprivation of liberty is no less injurious because it wounds the spirit rather than the body. Evacuation and relocation brought psychological pain, and the weakening of a traditionally strong family structure under pressure of separation and camp conditions. No price can be placed on these deprivations.

These facts present the Commission with a complex problem of great magnitude to which there is no ready or satisfactory answer. No amount of money can fully compensate the excluded people for their losses and sufferings. 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 neatly 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.

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

The governmental decisions of 1942 were not the work of a few men driven by animus, but decisions supported or accepted by public servants from nearly every part of the political spectrum. Nor did sustained or vocal opposition come from the American public. The wartime events produced an unjust result that visited great suffering upon an entire group of citizens, and upon resident aliens whom the Constitution also protects. While we do not analogize these events to the Holocaust -- for the detention camps were not death camps -- this is hardly cause for comfort in a democracy, even forty years later.

The belief that we Americans are exceptional often threatens our freedom by allowing us to look complacently at evil-doing elsewhere and to insist that "It can't happen here." Recalling the events of exclusion and detention, ensuring that later generations of Americans know this history, is critical immunization against infection by the virus of prejudice and the emotion of wartime struggle. "It did happen here" is a message that must be transmitted, not as an exercise in self-laceration but as an admonition for the future. Among our strengths as a nation is our willingness to acknowledge imperfection as well as to struggle for a more just society. It is in a spirit of continuing that struggle that the Commission recommends several forms of redress.

In proposing remedial measures, the Commission makes its recommendations in light of a history of postwar actions by federal, state and local governments to recognize and partially to redress the wrongs that were done:

- o In 1948, Congress passed the Japanese-American Evacuation Claims Act; this gave persons of Japanese ancestry the right to claim from the government

real and personal property losses that occurred as a consequence of the exclusion and evacuation. The Act did not allow claims for lost income or for pain and suffering. Approximately \$37 million was paid in claims, an amount far below what would have been full and fair compensation for actual economic losses. Awards were low because elaborate proof of loss was required, and incentives for settling claims below their full value were built into the Act.

o In 1972, the Social Security Act was amended so that Japanese Americans over the age of eighteen would be deemed to have earned and contributed to the Social Security system during their detention.

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

o In four instances, former government employees have received a measure of compensation. In 1982, the State of California enacted a statute permitting the few thousand Japanese Americans in the civil service, who were dismissed or who resigned during the war because of their Japanese ethnicity, to claim \$5,000 as reparation. In late 1982, the Los Angeles County Board of Supervisors enacted a similar program for the Japanese Americans it employed in 1942. San Francisco and the State of Washington recently passed statutes providing similar relief to former employees who were excluded.

Each measure acknowledges to some degree the wrongs inflicted during the war upon the ethnic Japanese. None can fully compensate or, indeed, make the

group whole again.

The Commission makes the following recommendations for remedies in several forms as an act of national apology.

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

2. The Commission recommends that the President pardon those who were convicted of violating the statutes imposing a curfew on American citizens on the basis of their ethnicity and requiring the ethnic Japanese to leave designated areas of the West Coast or to report to assembly centers. The Commission further recommends that the Department of Justice review other wartime convictions of the ethnic Japanese and recommend to the President that he pardon those whose offenses were grounded in a refusal to accept treatment that discriminated among citizens on the basis of race or ethnicity. Both recommendations are made without prejudice to cases currently before the courts.

3. The Commission recommends that Congress direct the Executive agencies to which Japanese Americans* may apply for the restitution of positions, status or entitlements lost in whole or in part because of acts or events between December 1941 and 1945 to review such applications with liberality, giving

* This recommendation and those which follow apply to all ethnic Japanese excluded or detained during World War II without regard to the explicit legal authority under which the government acted.

full consideration to the historical findings of this Commission. For example, the responsible divisions of the Department of Defense should be instructed to review cases of less than honorable discharge of Japanese Americans from the armed services during World War II over which disputes remain, and the Secretary of Health and Human Services should be directed to instruct the Commissioner of Social Security to review any remaining complaints of inequity in entitlements due to the wartime detention.

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

The Commissioners all believe a fund for educational and humanitarian purposes related to the wartime events is appropriate, and all agree that no fund would be sufficient to make whole again the lives damaged by the exclusion and detention. The Commissioners agree that such a fund appropriately addresses an injustice suffered by an entire ethnic group, as distinguished from individual deprivations.

Such a fund should sponsor research and public educational activities so that the events which were the subject of this inquiry will be remembered, and so that the causes and circumstances of this and similar events may be illuminated and understood. A nation which wishes to remain just to its citizens must not forget its lapses. The recommended foundation might appropriately fund compara-

tive studies of similar civil liberties abuses or of the effect upon particular groups of racial prejudice embodied by government action in times of national stress; for example, the fund's public educational activity might include preparing and distributing the Commission's findings about these events to textbook publishers, educators and libraries.

5. The Commissioners, with the exception of Congressman Lungren, recommend that Congress establish a fund which will provide personal redress to those who were excluded, as well as serve the purposes set out in Recommendation 4. Appropriations of \$1.5 billion should be made to the fund over a reasonable period to be determined by Congress. This fund should be used, first, to provide a one-time per capita compensatory payment of \$20,000 to each of the approximately 60,000 surviving persons excluded from their places of residence pursuant to Executive Order 9066.* The burden should be on the government to locate survivors, without requiring any application for payment, and payments should be made to the oldest survivors first. After per capita payments, the remainder of the fund should be used for the public educational purposes discussed in Recommendation 4 as well as for the general welfare of the Japanese American community. This should be accomplished by grants for purposes such as aid to the elderly and scholarships for education, weighing, where appropriate, the effect on the exclusion and detention on the descendants of those who were detained. Individual payments in compensation for loss or damage should not be made.

*15222 1/11/82
J.M.L.*

* Commissioner William M. Marutani formally renounces any monetary recompense either direct or indirect.

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

II. The Aleuts*

When the Japanese attacked and captured the two westernmost Aleutian Islands, Kiska and Attu, the military evacuated the Aleuts from the Pribilofs and from many islands in the Aleutian chain. This action was justified as a measure to protect civilians in an active theatre of war. The Commission found no persuasive showing that evacuation of the Aleuts was motivated by racism or that it was undertaken for any reason but their safety. The evacuation of the Aleuts was a rational wartime measure taken to safeguard them.

Following the evacuation, however, the approximately 900 evacuated Aleuts suffered at the hands of the government in two distinct ways. First, no plan had been developed to care for them by the civilian agencies in the Department of the Interior which had responsibility for Aleut interests. As a result, they were transported to southeastern Alaska and housed in camps set up typically at abandoned gold mines or canneries. Conditions varied among

*Commissioner Joan Z. Bernstein recuses herself from participation in recommending remedies for the Aleuts because of a potential conflict of interest involving representation by the law firm of which she is a member.

camps, but housing, sanitation and eating conditions in most were deplorable. Medical care was inadequate; illness and disease were widespread. While exact numbers are not available, it appears that approximately ten percent of the Aleut evacuees died during the two to three years they spent in the camps.

This treatment clearly failed to meet the government's responsibility to those under its care.

Second, on returning to their villages, the Aleuts found that many houses and churches had been vandalized by the U.S. military. Houses, churches, furniture, boats and fishing gear were missing, damaged or destroyed. Devout followers of the Russian Orthodox faith, the Aleuts had treasured religious icons from czarist Russia and other family heirlooms; now gone, they were a significant loss spiritually as well as materially. Insofar as the government attempted to make good some of these losses, it typically replaced Aleut possessions with inferior goods, and the losses were never remedied adequately.

The Fifth Amendment commits the government to compensating for property it takes. Appropriate, full compensation clearly has not been made in the case of the Aleuts.

In addition, the island of Attu, now used at least in part by the Coast Guard, was never returned to the Aleuts after the Second World War. There also remain in the Aleutians large quantities of wartime debris, much of it hazardous. A great deal, but not all, of this material rests on federally-owned land.

No effective system of records exists by which to estimate Aleut property losses exactly; certainly there is no readily available means of putting a dollar value upon the suffering and death brought to Aleuts in the camps. The Commissioners agree that a claims procedure would not be an effective method of compensation. Therefore, the sums included in the Commission's recommendations were chosen to recognize fundamental justice as the Commissioners perceive it on the basis of the testimony and evidence before them. The recommended amounts do not reflect a precise balancing of actual losses; this is now, after many years, a practical impossibility.

1. The Commissioners, with Congressman Lungren dissenting, recommend that Congress establish a fund for the beneficial use of the Aleuts in the amount of \$5 million. The principal and interest of the fund should be spent for community and individual purposes which would be compensatory for the losses and injuries Aleuts suffered as a result of the evacuation. These injuries, as Personal Justice Denied describes, include lasting disruption of traditional Aleut means of subsistence and, with it, the weakening of their cultural tradition. The Commissioners therefore foresee entirely appropriate expenditures from the proposed fund for community educational, cultural or historical rebuilding in addition to medical or social services.

2. The Commissioners, with Congressman Lungren dissenting, recommend that Congress appropriate funds and direct a payment of \$5,000 per capita to each of the few hundred surviving Aleuts evacuated from the Aleutian or Pribilof Islands by the federal government during World War II.

3. The Commission recommends that Congress appropriate funds and direct the relevant government agency to rebuild and restore the churches damaged or destroyed in the Aleutian Islands in the course of World War II; preference in employment should be given to Aleuts in performing the work of rebuilding and restoring these buildings, which were community centers as well as houses of worship.

4. The Commission recommends that Congress appropriate adequate funds through the public works budget for the Army Corps of Engineers to clear away the debris that remains from World War II in and around populated areas of the Aleutian Islands.

5. The Commission recommends that Congress declare Attu to be native land and that Attu be conveyed to the Aleuts through their native corporation upon condition that the native corporation is able to negotiate an agreement with the Coast Guard which will allow that service to continue essential functions on the island.

* * * *

Finally, the Commission recommends that a permanent collection be established and funded in the National Archives to house and make available for research the collection of government and private documents, personal testimony and other materials which the Commission amassed during its inquiry.

* * *

The Commission believes that, for reasons of redressing the personal injustice done to thousands of Americans and resident alien Japanese, and to the Aleuts -- and for compelling reasons of preserving a truthful sense of our own history and the lessons we can learn from it -- these recommendations should be enacted by the Congress. In the late 1930's W. H. Auden wrote lines that express our present need to acknowledge and to make amends:

We are left alone with our day, and the time is short and

History to the defeated

May say Alas but cannot help or pardon.

It is our belief that, though history cannot be unmade, it is well within our power to offer help, and to acknowledge error.

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BEFORE THE COMMISSION ON WAR TIME
RELOCATION AND INTERNMENT OF CIVILIANS

BRIEF BY BAY AREA ATTORNEYS FOR REDRESS
ON SELECTED CONSTITUTIONAL ISSUES

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TESTIMONY OF JOAN Z. BERNSTEIN, CHAIRMAN
COMMISSION ON WARTIME RELOCATION AND INTERNMENT OF CIVILIANS
BEFORE
THE SUBCOMMITTEE ON COMMERCE, JUSTICE, STATE, THE JUDICIARY
AND RELATED AGENCIES

Mr. Chairman, as Chairman of the recently established Commission on Wartime Relocation and Internment of Civilians, I am here today to offer testimony in support of the Commission's request for a technical appropriation language change which would allow that funds already appropriated to the Commission for FY 1981 under Public Law 96-536 be available to the Commission until expended.

Before I address that point specifically, let me say that I think it is significant to recognize the extensive, bipartisan support the establishment of this Commission has received --- support indicated by the 96th and 97th Congresses, by the Carter Administration and more recently by the Reagan Administration.

The Committee, I am certain, is fully familiar with the legislative history of this temporary study commission. Briefly, during the 96th Congress, S.1647, a bill to establish a seven member Commission on Wartime Relocation and Internment of Civilians, received wide bipartisan support in both houses of Congress. Signed into law by President Carter on July 31, 1980, Public Law 96-317 charges the Commission with (1) reviewing the facts and circumstances surrounding Executive Order 9066, and the impact of that order on American citizens and permanent resident aliens; (2) reviewing directives of United States military forces that required the relocation and, in some cases, detention in internment camps of American citizens, including

Aleut civilians, and permanent resident aliens of the Aleutian and Pribilof Islands; and (3) to recommend appropriate remedies.

As you know, the 97th Congress, again with broad bipartisan support, passed S.253 which increased the number of members of the Commission from seven to nine. On February 10 of this year, President Reagan signed this measure into law. Public Law 97-3 contains no additional authorization of appropriations. The Commission has also been supported by the Reagan Administration in that OMB Director David A. Stockman approved the appeal of the Commission for an exemption from the hiring freeze on February 24, 1981.

The Commission now has its full complement of members. Staffing considerations have been made and we expect to move quickly within the next two weeks to fill the eleven authorized staff positions.

The Commission is authorized for an eighteen month period of study. Public Law 96-536, the funding appropriation, only appropriated funds for FY 1981. Therefore, this appropriation change is requested and necessary to allow the Commission use of FY 1981 appropriated funds until expended in FY 1982.

Accordingly, the Commission on Wartime Relocation and Internment of Civilians requests that the Subcommittee approve its request for a technical language change in appropriations for the Commission.

Personal Justice Denied

REPORT OF THE
COMMISSION ON WARTIME RELOCATION
AND INTERNMENT OF CIVILIANS

WASHINGTON, D.C.
DECEMBER 1982

THE COMMISSION ON WARTIME RELOCATION AND INTERNMENT OF CIVILIANS

Joan Z. Bernstein, *Chair*

Daniel E. Lungren, *Vice-Chair*

Edward W. Brooke

Robert F. Drinan

Arthur S. Flemming

Arthur J. Goldberg

Ishmael V. Gromoff

William M. Marutani

Hugh B. Mitchell

Angus Macbeth, *Special Counsel*

later did John J. McCloy, an easterner with little experience of the west before Pearl Harbor,¹⁹⁰ discover whose program he had been carrying out on the Pacific Coast after the War Department had failed to scrutinize General DeWitt's demands closely and critically. It was certainly with an air of disgust that McCloy wrote to General DeWitt's successor, introducing California after his transfer from Hawaii:

The situation in California is not the same [as in Hawaii]. You have no doubt become aware of the existence of active and powerful minority groups in California whose main interest in the war seems to take the form of a desire for permanent exclusion of all Japanese, loyal or disloyal, citizen or alien, from the West Coast or, at least, from California. . . . This means that considerations other than of mere military necessity enter into any proposal for removal of the present restrictions.¹⁹¹

The program could not be ended on the basis of "mere military necessity," largely because it did not begin that way.

3

Exclusion and Evacuation

With the signing of Executive Order 9066, the course of the President and the War Department was set. American citizens of Japanese ancestry would be required to move from the West Coast on the basis of wartime military necessity, and the way was open to move any other group the military thought necessary. For the War Department and the Western Defense Command (WDC), the problem now became primarily one of method and operation, not basic policy. General DeWitt first tried "voluntary" resettlement: the Issei and Nisei were to move outside restricted military zones on the West Coast but were free to go wherever they chose. From a military standpoint, this policy was bizarre and utterly impractical besides. If the Issei and Nisei were being excluded because they threatened sabotage and espionage, it is difficult to understand why they would be left at large in the interior where there were, of course, innumerable dams, power lines, bridges and war industries to be spied upon or disrupted. For that matter, sabotage in the interior could be synchronized with a Japanese raid or invasion for a powerful fifth column effect. If this was of little concern to General DeWitt once the perceived problem was removed beyond the boundaries of his command, it raises substantial doubts about how gravely the War Department regarded the threat. The implications were not lost on the citizens and politicians of the interior western states; they believed that people who were a threat to wartime security in California were equally dangerous in Wyoming and Idaho.

For the Issei and Nisei, "voluntary" relocation was largely impractical. Quick sale of a going business or a farm with crops in the ground could not be expected at a fair price. Most businesses that relied on the ethnic trade in the Little Tokyos of the West Coast could not be sold for anything close to market value. The absence of fathers and husbands in internment camps and the lack of liquidity after funds were frozen made matters more difficult. It was not easy to leave, and the prospect of a deeply hostile reception in some unknown town or city was a powerful deterrent to moving.

Inevitably the government ordered mandatory mass evacuation controlled by the Army; first to assembly centers—temporary staging areas, typically at fairgrounds and racetracks—and from there to relocation centers—bleak, barbed-wire camps in the interior. Mass evacuation went forward in one locality after another up and down the coast, on short notice, with a drill sergeant's thoroughness and lack of sentimentality. As the Executive Order required, government agencies made an effort, only partially successful, to protect the property and economic interests of the people removed to the camps; but their loss of liberty brought enormous economic losses.

Even in time of war, the President and the military departments do not make law alone. War actions must be implemented through Congress, and the courts may review orders and directions of the President about the disposition of the civilian population. Finally, in a democratic society with a free press, public opinion will be heard and weighed. In the months immediately following Executive Order 9066, none of these political estates came to the aid of the Nisei or their alien parents. The Congress promptly passed, without debate on questions of civil rights and civil liberties, a criminal statute prohibiting violation of military orders issued under the Executive Order. The district courts rejected Nisei pleas and arguments, both on habeas corpus petitions and on the review of criminal convictions for violating General DeWitt's curfew and exclusion orders. Public opinion on the West Coast and in the country at large did nothing to temper its violently anti-Japanese rage of early February. Only a handful of citizens and organizations—a few churchmen, a small part of organized labor, a few others—spoke out for the rights and interests of the Nisei.

Few in numbers, bereft of friends, probably fearful that the next outburst of war hysteria would bring mob violence and vigilantism that law enforcement officials would do little to control, left only to choose a resistance which would have proven the very disloyalty they denied—the Nisei and Issei had little alternative but to go. Each carried a

personal burden of rage or resignation or despair to the assembly centers and camps which the government had hastily built to protect 130 million Americans against 60,000 of their fellow citizens and their resident alien parents.

CONGRESS ACTS

The Executive Order gave the military the power to issue orders; it could not impose sanctions for failure to obey them. The Administration quickly turned to Congress to obtain that authority. By February 22, the War Department was sending draft legislation to the Justice Department. General DeWitt wanted mandatory imprisonment and a felony sanction because "you have greater liberty to enforce a felony than you have to enforce a misdemeanor, viz. You can shoot a man to prevent the commission of a felony."¹ On March 9, 1942, Secretary Stimson sent the proposed legislation to Congress. The bill was introduced immediately by Senator Robert Reynolds of North Carolina, Chairman of the Senate Committee on Military Affairs, and by Representative John M. Costello of California.²

The Executive Order was what the West Coast Congressional delegation had demanded of the President and the War Department. Congressman John H. Tolan of California, who chaired the House Select Committee which examined the evacuation from prohibited military areas, characterized the order as "the recommendation in almost the same words of the Pacific coast delegation."³ With such regional support and military backing, there were only two circumstances under which one might have expected Congressional opposition: if Tolan's Committee, which held hearings on the West Coast in late February, immediately after the Executive Order was signed, had returned to Washington prepared to argue against the Executive Order; or if, given the fact that there was no evidence of actual sabotage or espionage, members concerned with civil rights and civil liberties had protested.

Members of the Tolan Committee did not openly abandon support of the Executive Order after their West Coast hearings. They went out persuaded that espionage and fifth column activity by Issei and Nisei in Hawaii had been central to the success of the Japanese attack. Censorship in Hawaii meant that the only authoritative news from the islands was official. With regard to sabotage and fifth column activity,

activity, that version of events was still largely made up of two pieces: Secretary Knox's firmly-stated December views that local sabotage had substantially aided the attack, and the Roberts Commission's silence about fifth column activity.⁴ Thus there was no effective answer to be made when Tolan challenged pro-Nisei witnesses:

We had our FBI in Honolulu, yet they had probably the greatest, the most perfect system of espionage and sabotage ever in the history of war, native-born Japanese. On the only roadway to the shipping harbor there were hundreds and hundreds of automobiles clogging the street, don't you see.⁵

Not privy to the facts in Hawaii, advocates of Japanese American loyalty such as the Japanese American Citizens League, were frequently reduced to arguing lamely that the mainland Nisei were different from, and more reliable than, the residents of Hawaii.⁶ This view of Pearl Harbor goes a long way toward explaining the argument, repeated by the Congressmen, that the lack of sabotage only showed that enemy loyalists were waiting for a raid or invasion to trigger organized activity.⁷

The Nisei spoke in their own defense; a few academics, churchmen and labor leaders supported them.⁸ Even much of this testimony, assuming that a mass evacuation was a *fait accompli*, addressed secondary issues such as treatment during evacuation. Traditional anti-Japanese voices such as the California Joint Immigration Committee testified firmly in favor of the Executive Order, reciting again the historical catalogue of anti-Japanese charges.⁹

Earl Warren, then Attorney General of California and preparing to run for governor, joined the anti-Japanese side of the argument. One of the first witnesses, Warren presented extensive views to the Committee; he candidly admitted that California had made no sabotage or espionage investigation of its own and that he had no evidence of sabotage or espionage.¹⁰ In place of evidence Warren offered extensive documentation about Nikkei cultural patterns, ethnic organizations and the opinions of California law enforcement officers; his testimony was illustrated by maps vividly portraying Nikkei land ownership. This was nothing but demagoguery:

I do not mean to suggest that it should be thought that all of these Japanese who are adjacent to strategic points are knowing parties to some vast conspiracy to destroy our State by sudden and mass sabotage. Undoubtedly, the presence of many of these persons in their present locations is mere coincidence, but it would seem equally beyond doubt that the presence of others is not coinci-

dence. It would seem difficult, for example, to explain the situation in Santa Barbara County by coincidence alone.

In the northern end of that county is Camp Cook where, I am informed, the only armored division on the Pacific coast will be located. The only practical entrance to Camp Cook is on the secondary road through the town of Lompoc. The maps show this entrance is flanked with Japanese property, and it is impossible to move a single man or a piece of equipment in or out of Camp Cook without having it pass under the scrutiny of numerous Japanese. I have been informed that the destruction of the bridges along the road to Camp Cook would effectually bottle up that establishment for an indefinite time, exit to the south being impossible because of extremely high mountains and to the north because of a number of washes with vertical banks 50 to 60 feet deep. There are numerous Japanese close to these bridges.

Immediately north of Camp Cook is a stretch of open beach ideally suited for landing purposes, extending for 15 or 20 miles, on which almost the only inhabitants are Japanese.

Throughout the Santa Maria Valley and including the cities of Santa Maria and Guadalupe every utility, airfield, bridge, telephone, and power line or other facility of importance is flanked by Japanese, and they even surround the oil fields in this area. Only a few miles south, however, is the Santa Ynez Valley, an area equally as productive agriculturally as the Santa Maria Valley and with lands equally available for purchase and lease, but without any strategic installations whatever. There are no Japanese in the Santa Ynez Valley.

Similarly, along the coastal plain of Santa Barbara County from Gaviota south, the entire plain, though narrow, is subject to intensive cultivation. Yet the only Japanese in this area are located immediately adjacent to such widely separated points as the El Capitan oil field, Elwood oil field, Summerland oil field, Santa Barbara Airport, and Santa Barbara Lighthouse and Harbor entrance, and there are no Japanese on the equally attractive lands between these points.

Such a distribution of the Japanese population appears to manifest something more than coincidence. But, in any case, it is certainly evident that the Japanese population of California is, as a whole, ideally situated, with reference to points of strategic importance, to carry into execution a tremendous program of sabotage on a mass scale should any considerable number of them be inclined to do so.¹¹

As late as February 8, Warren had advised the state personnel board that it could not bar Nisei employees on the basis that they were children of enemy alien parentage; such action was a violation of con-

stitutionally protected liberties.¹² This earlier stance must have given his performance before the Tolan Committee special force and effect.*

At bottom, Warren's presentation had no probative value, and calm reflection would probably have led many to question whether people planning to blow up dams or bridges would have purchased the surrounding land rather than masking their intentions more thoroughly. But these were not weeks of calm reflection. The overpowering mass of Warren's data—maps and letters and lists from all over California—gripped the imagination and turned the discussion to fruitless argument about whether land was bought before or after a powerline or plant was built; no one focused on whether there was reason to believe that this "evidence" meant anything at all. A similar "analysis" of ethnic Italian land ownership would probably have produced an equally alarming and meaningless pattern, and, as Governor Olson testified to the Committee, there were many Italian language schools which frequently inculcated Fascist values.¹³ Of course, no such comparison was made; even Olson's shocked revelation failed to attract the attention of the Committee. The fact that the first witness called by the Tolan Committee was Mayor Rossi of San Francisco and that a great deal of time was devoted to extolling the unquestionable Americanism of the DiMaggio brothers (although their father and mother were aliens), clearly brings home the advantages which numbers, political voices and comparative assimilation provided in 1942's hour of crisis.¹⁴ Helpful, too, was the absence of an organized anti-Italian faction and the patronizing ethnic stereotype of being, as President Roosevelt remarked, nothing but a lot of opera singers.¹⁵

In late February and early March, the Tolan Committee assumed that Secretary Knox knew what he was talking about and that the President was acting on informed opinion. The views of anti-Japanese witnesses added substance and confirmed what was already known or suspected. Although the Committee was eager to see that the property

*It was certainly persuasive with the Western Defense Command. In DeWitt's *Final Report*, much of Warren's presentation to the Tolan Committee was repeated virtually verbatim, without attribution. Warren's arguments, presented after the signing of the Executive Order, became the central justifications presented by DeWitt for issuing the Executive Order (Compare *Final Report*, pp. 9-10, to Tolan Committee, p. 10974). This quick reorganization of history does little to enhance the reputation of the Western Defense Command for candor and independent analysis, although Warren may well have presented his views to DeWitt earlier in February.

of aliens was safeguarded by the government and wanted the Army to be concerned about hardship cases in an evacuation, it returned to Washington unwilling to challenge the need for Executive Order 9066 and the evacuation. Only in reports issued over the next few months did the Committee begin to raise serious questions about the policy underlying exclusion and removal.¹⁶

There was no civil liberty opposition in Congress to making criminal any violation of the Executive Order. There were, of course, few Nisei of voting age and they had no voice in Congress. No one publicly questioned the military necessity of the action or its intrusion into the freedom of American citizens. Such debate as there was focused on the inclusive wording of the bill.

The language of the bill was loose indeed. Senator Danaher wondered how a person would know what conduct constituted a violation of the act, an essential requirement for a criminal statute.¹⁷ Senator Taft spoke briefly against the bill, although he did not vote against it:

I think this is probably the "sloppiest" criminal law I have ever read or seen anywhere. I certainly think the Senate should not pass it. I do not want to object, because the purpose of it is understood. . . .

[The bill] does not say who shall prescribe the restrictions. It does not say how anyone shall know that the restrictions are applicable to that particular zone. It does not appear that there is any authority given to anyone to prescribe any restriction. . . .

I have no doubt an act of that kind would be enforced in war time. I have no doubt that in peacetime no man could ever be convicted under it, because the court would find that it was so indefinite and so uncertain that it could not be enforced under the Constitution.¹⁸

The debate was no more pointed or cogent in the House, where there seemed to be some suggestion that the bill applied to aliens rather than citizens.¹⁹ The bill passed without serious objection or debate, and was signed into law by the President on March 21, 1942.²⁰

This ratification of Executive Branch actions under Executive Order 9066 was particularly important; another independent branch of government now stood formally behind the exclusion and evacuation, and the Supreme Court gave great weight to the Congressional action in upholding the imposition of a curfew and the evacuation itself.^{21*}

*The Administration also considered introducing other legislation which would have affected Japanese Americans. For example, Secretary Stimson wrote to the Director of the Bureau of Budget on February 24 about legislation

IMPLEMENTING THE EXECUTIVE ORDER

Executive Order 9066 empowered the Secretary of War or his delegate to designate military areas to which entry of any or all persons would be barred whenever such action was deemed militarily necessary or desirable.²² On February 20, 1942, Secretary Stimson wrote to General DeWitt delegating authority to implement the Executive Order within the Western Defense Command and setting forth a number of specific requests and instructions: American citizens of Japanese descent, Japanese and German aliens, and any persons suspected of being potentially dangerous were to be excluded from designated military areas; everyone of Italian descent was to be omitted from any plan of exclusion, at least for the time being, because they were "potentially less dangerous, as a whole." DeWitt was to consider redesignating the Justice Department's prohibited areas as military areas, excluding Japanese and German aliens from those areas by February 24 and excluding actually suspicious persons "as soon as practicable;" full advantage was to be taken of voluntary exodus; people were to be removed gradually to avoid unnecessary hardship and dislocation of business and industry "so far as is consistent with national safety;" accommodations were to be made before the exodus, with proper provision for housing, food, transportation and medical care. Finally, evacuation plans were to provide protection of evacuees' property.²³

Over the next month DeWitt began to implement Stimson's instructions. On March 2, he issued Public Proclamation No. 1, announcing as a matter of military necessity the creation of Military Areas No. 1 and No. 2. Military Area 1 was the western half of Washington, Oregon, and California and the southern half of Arizona; all portions of those states not included in Military Area No. 1 were in Military Area No. 2. A number of zones were established as well; Zones A-1 through A-99 were primarily within Military Area No. 1; Zone B was

to amend the Nationality Act of 1940. The proposed amendments would have permitted those who did not speak English to apply for citizenship; at the same time, it would have provided a process for cancelling citizenship for those whose conduct established allegiance to a foreign government. (Memo, Stimson to Smith, Feb. 24, 1942 [CWRIC 2809]). In effect, the legislation would have allowed naturalization of aliens from enemy countries in Europe and the cancellation of citizenship of some persons, particularly ethnic Japanese—a step never before provided, but one which the anti-Japanese faction on the West Coast had pushed in the past and would continue to urge.

the remainder of Military Area No. 1. The Proclamation further noted that in the future people might be excluded from Military Area No. 1 and from Zones A-2 to A-99, and that the designation of Military Area No. 2 did not contemplate restrictions or prohibitions except with respect to the Zones designated. The Proclamation clearly foreshadowed extensive future exclusions. It also provided that any Japanese, German, or Italian alien, and any person (citizen) of Japanese ancestry residing in Military Area No. 1 who changed his residence, was required to file a form with the post office. Finally, the Proclamation expressly continued the prohibited and restricted areas designated by the Attorney General.²⁴ A curfew regulation requiring all enemy aliens and persons of Japanese ancestry to be in their homes between 8 p.m. and 6 a.m. was added by proclamation on March 24, 1942.²⁵

In the press statement accompanying his first public proclamation, DeWitt announced that Japanese—both aliens and citizens—would be evacuated first (suspicious persons were, of course, being apprehended daily); only after the Japanese had been excluded would German and Italian aliens be evacuated. In addition, some German and Italian aliens would be altogether exempt from evacuation.²⁶

At this point "voluntary" resettlement outside the designated zones was contemplated; excluded people were free to go where they chose beyond the prohibited areas. "Voluntary" evacuation actually began before Executive Order 9066. Enemy aliens had been excluded from areas designated by the Department of Justice as early as December 1941, and many had moved out of the prohibited areas voluntarily. The Army had an interest in attempting to continue that system; Bendetsen noted that many aliens ordered to move after Pearl Harbor had found new places for themselves, stressing that the Army should not advertise that it would provide food and housing for those it displaced because numerous aliens might rush to take advantage of a free living. He also thought the Army should not be responsible for resettlement, since its job "is to kill Japanese not to save Japanese;" devoting resources to resettlement would make the Army's primary task—that of winning the war—more difficult.²⁷

In Seattle, optimism marked the voluntary evacuation program. Local FBI agents informed J. Edgar Hoover in late February that Japanese aliens were prepared to evacuate, and that the Japanese American Citizens League, through the Maryknoll Mission, was attempting to secure facilities and employment for the Seattle Japanese community—both citizens and aliens—in St. Louis, Missouri.²⁸ The Seattle Chapter of the JACL passed and published a resolution that

its members would make every effort to cooperate with the government to facilitate evacuation measures.²⁹

More sober minds saw that the voluntary program could not work. As early as February 21, the Tolan Committee was beginning to receive complaints from areas to which the evacuees were moving;³⁰ fears of sabotage and destruction were spreading inland.³¹ Both Earl Warren and Richard Neustadt, the regional director of the Federal Security Agency, saw that only an evacuation and relocation program run by the government could work.³²

The reaction from the interior was direct and forceful. On February 21, 1942, Governor Carville of Nevada wrote to General DeWitt that permitting unsupervised enemy aliens to go to all parts of the country, particularly to Nevada, would be conducive to sabotage and subversive activities:

I have made the statement here that enemy aliens would be accepted in the State of Nevada under proper supervision. This would apply to concentration camps as well as to those who might be allowed to farm or do such other things as they could do in helping out. This is the attitude that I am going to maintain in this State and I do not desire that Nevada be made a dumping ground for enemy aliens to be going anywhere they might see fit to travel.³³

Governor Ralph L. Carr of Colorado was characterized by many contemporaries as the one mountain state governor receptive to relocation of the Issei and Nisei in his state.³⁴ His radio address of February 28, 1942, gives a vivid impression of how high feelings ran about these unwanted people:

If those who command the armed forces of our Nation say that it is necessary to remove any persons from the Pacific coast and call upon Colorado to do her part in this war by furnishing temporary quarters for those individuals, we stand ready to carry out that order. If any enemy aliens must be transferred as a war measure, then we of Colorado are big enough and patriotic enough to do our duty. We announce to the world that 1,118,000 red-blooded citizens of this State are able to take care of 3,500 or any number of enemies, if that be the task which is allotted to us. . . .

The people of Colorado are giving their sons, are offering their possessions, are surrendering their rights and privileges to the end that this war may be fought to victory and permanent peace. If it is our duty to receive disloyal persons, we shall welcome the performance of that task.

This statement must not be construed as an invitation, however. Only because the needs of our Nation dictate it, do we even consider such an arrangement. In making the transfers, we can feel assured

that governmental agencies will take every precaution to protect our people, our defense projects, and our property from the same menace which demands their removal from those sections.³⁵

The government was also beginning to realize the hardship which the "voluntary" program brought upon evacuees. For instance, Secretary Knox forwarded to the Attorney General a report that the situation of the Japanese in southern California was critical because they were being forced to move with no provision for housing or means of livelihood.³⁶ McCloy, still in favor of the voluntary program, wrote Harry Hopkins at the White House that "[o]ne of the drawbacks they have is the loss of their property. A number of forced sales are taking place and, until the last minute, they hate to leave their land or their shop."³⁷

Inevitably, the "voluntary" evacuation failed. The Army recognized this in Public Proclamation No. 4 on March 27, which prohibited persons of Japanese ancestry in Military Area No. 1 from changing their residence without instruction or approval from the Army. The Western Defense Command explained that the Proclamation was "to ensure an orderly, supervised, and thoroughly controlled evacuation with adequate provision for the protection . . . of the evacuees as well as their property." The evacuees were to be shielded from intense public hostility by this approach.³⁸ Full government control had arrived.

The change-of-address cards required by Public Proclamation No. 1 show the number of people who voluntarily relocated before March 29. In the three weeks following March 2, only 2,005 reported moving out of Military Area No. 1; since approximately 107,500 persons of Japanese descent lived there, these statistics alone showed that voluntary migration would not achieve evacuation. Public Proclamation No. 4 was issued on March 27 effective at midnight March 29. In the interval the Wartime Civil Control Administration received a rush of approximately 2,500 cards showing moves out of Military Areas No. 1 and 2.³⁹ The statistics in General DeWitt's *Final Report* are not altogether consistent: they show that from March 12 to June 30, 1942, 10,312 persons reported their "voluntary" intention to move out of Military Area No. 1. But a *net* total⁴⁰ of less than half that number—4,889—left the area as part of the "voluntary" program. Of these voluntary migrants, 1,963 went to Colorado; 1,519 to Utah; 305 to Idaho; 208 to eastern Washington; 115 to eastern Oregon; and the remainder to other states.⁴¹ The *Final Report* surmises that this net total "probably

accounts for 90 percent of the total number of Japanese . . . who voluntarily left the West Coast area for inland points."⁴² ♦

While the voluntary program was failing, government officials and others began to propose programs designed for the evacuees. On February 20, 1942, Carey McWilliams, then a California state official and later editor of *The Nation*, sent a telegram to Biddle recommending that the President establish an Alien Control Authority run by representatives of federal agencies. The agency would register, license, settle, maintain and reemploy the evacuees, and conserve alien property. Ennis forwarded the suggestion to McCloy, who thought it had merit.⁴³ During the first week of March 1942, the Commissioner of Indian Affairs in the Interior Department, John Collier, proposed what he considered to be a constructive program for the evacuees, including useful work, education, health care and other services to be provided to them, as well as a plan for rehabilitation after the war. Collier said that the Department of the Interior would be interested in working on such a program if it were a meaningful one.⁴⁴ The Toland Committee filed an interim report which showed great prescience about future problems and considerable concern for the fate of the evacuees.⁴⁵

Whatever their individual merit, these proposals reflect genuinely sympathetic interest in the evacuees. Unfortunately, much of the thought and care that went into these programs was lost in the rush to evacuate and relocate.

MANDATORY EVACUATION

Once the decision was made that evacuation was no longer voluntary, a plan for compulsory evacuation was needed.* The core of this plan

*There is a continuing controversy over whether the Census Bureau breached the confidentiality of census information in order to aid other government agencies in locating ethnic Japanese. John Toland, in his recent book *Infamy: Pearl Harbor and Its Aftermath* (Garden City, NY: Doubleday & Co., c., 1982), pp. 269, 284-85, recounts an episode on November 26, 1941, in which Henry Field, an anthropologist working as an aide to President Roosevelt, was called to the office of Grace Tully, Roosevelt's secretary:

She told Field that the President was ordering him to produce, in the shortest time possible, the full names and addresses of each American-born and foreign-born Japanese listed by locality within each state. Field

was that evacuation and relocation could not be accomplished simultaneously.⁴⁶ Therefore, sites had to be found for both temporary quarters and longer-term settlement.

During the period of the voluntary evacuation program, the Army had begun a search for appropriate camp facilities, both temporary and permanent.⁴⁷ Regarding the criteria for selection of assembly centers, General DeWitt later wrote:

Assembly Center site selection was a task of relative simplicity. As time was of the essence, it will be apparent that the choice was limited by four rather fundamental requirements which virtually pointed out the selections ultimately made. First, it was necessary to find places with some adaptable pre-existing facilities suitable for the establishment of shelter, and the many needed

was completely bewildered and didn't know how to begin. She explained it was to be done by using the 1930 and 1940 censuses. Within one week, Field is said to have delivered to Grace Tully the names and addresses of all the ethnic Japanese in the United States.

Calvert Dedrick, a Census Bureau employee who became a consultant to the Western Defense Command in late February 1942, testified to the Commission that to his knowledge the Census Bureau provided the Western Defense Command with detailed tabulations of the location of the ethnic Japanese population but did not provide the names or addresses of individuals. (Testimony, Dedrick, Washington, DC, Nov. 3, 1981, pp. 170-90.) The Census Bureau undertook an internal investigation after the publication of Toland's book and concluded that the account to Toland was not accurate and that names and addresses had not been released. (Bureau of the Census "Statement on Census Bureau Actions at the Outset of World War II as Reported in *Infamy: Pearl Harbor and Its Aftermath*, by John Toland," Oct. 1982 [CWRIC 2929-34].) A brief statement by the Census Bureau of its activities in connection with the evacuation, written in 1946, also states that names and individual identifications were not provided to the Western Defense Command. (Roger Daniels, "The Bureau of the Census and the Relocation of the Japanese Americans: A Note and a Document," *Amerasia Journal*, vol. 9, no. 1, 1982, pp. 101-05.) In his interview for the Earl Warren Oral History Project, Tom Clark mentioned the Census Bureau data in passing:

The Census Bureau moved out its raw files. . . . They would lay out on tables various city blocks where the Japanese lived and they would tell me how many were living in each block. (Earl Warren Oral History Project, *Japanese American Relocation Reviewed*, vol. 1, Interview of Tom C. Clark, p. 9.)

There is no direct evidence or testimony to the effect that the Western Defense Command was in possession of the names and addresses of individual ethnic Japanese, as collected by the Census Bureau, at the time that mandatory evacuation was carried out, but Field's story raises questions.

community services. Second, power, light, and water had to be within immediate availability as there was no time for a long pre-development period. Third, the distance from the Center of the main elements of evacuee population served had to be short, the connecting road and rail net good, and the potential capacity sufficient to accept the adjacent evacuee group. Finally, it was essential that there be some area within the enclosure for recreation and allied activities as the necessary confinement would otherwise have been completely demoralizing. The sudden expansion of our military and naval establishments further limited the choice.⁴⁸

Site selection did not proceed perfectly smoothly, however. After Owens Valley in California was selected as a center, Congressman Ford of California, who had been prominent in urging the evacuation, objected. In a conversation with Gullion, DeWitt discussed Ford's objection: "Well, they are going to Owens Valley, and that's all. I don't care anything about the howl of these Congressmen or anybody else."⁴⁹ The attitude was typical of DeWitt who, given authority, did not hesitate to use it; but Ford continued to press his position, meeting with Justice Department officials and planning to meet with Bendetsen and possibly others.⁵⁰ He was not successful, since Stimson stood behind DeWitt, but it gave fair warning that many interested politicians who had pushed to establish the evacuation program and exclude the Nikkei from the West Coast retained a vital interest. As the months went by the War Department in Washington was to learn what DeWitt may have known all along: exclusion fulfilled the program of powerful organized interests in California, and no part of it would be given up without a fight.

In March work began at the first two permanent relocation centers, Manzanar in the Owens River Valley and the Northern Colorado Indian Reservation in Arizona; the sites served as both assembly and relocation centers.⁵¹ The other assembly centers were selected with dispatch. The *Final Report* explains:

After an intensive survey the selections were made. Except at Portland, Oregon, Pinedale and Sacramento, California and Mayer, Arizona, large fairgrounds or racetracks were selected. As the Arizona requirements were small, an abandoned Civilian Conservation Corps camp at Mayer was employed. In Portland the Pacific International Live Stock Exposition facilities were adapted to the purpose. At Pinedale the place chosen made use of the facilities remaining on a former mill site where mill employees had previously resided. At Sacramento an area was employed where a migrant camp had once operated and advantage was taken of nearby utilities.⁵²

A major step toward systematizing evacuation at this time was the establishment of the War Relocation Authority (WRA), a civilian agency, to supervise the evacuees after they left Army assembly centers. The War Department was eager to be out of the resettlement business, and discussed with the Attorney General and the Budget Bureau the mechanism for setting up a permanent organization to take over the job. Milton Eisenhower, a candidate fully acceptable to the War Department, was chosen to head the agency; McCloy took him to San Francisco to meet DeWitt before the Executive Order setting up the WRA was promulgated.⁵³ By March 17, plans for the independent authority responsible for the Japanese Americans were completed; the next day Roosevelt signed Executive Order 9102 to establish the War Relocation Authority,⁵⁴ appointed Eisenhower Director,⁵⁵ and allocated \$5,500,000 for the WRA.⁵⁶

WRA was established "to provide for the removal from designated areas of persons whose removal is necessary in the interest of national security. . . ." The Director was given wide discretion; the Executive Order did not expressly provide for relocation camps, and it gave the Director authority to "[p]rovide, insofar as feasible and desirable, for the employment of such persons at useful work in industry, commerce, agriculture, on public projects, prescribe the terms and conditions of such public employment, and safeguard the public interest in the private employment of such persons."⁵⁷ In short, the WRA's job would be to take over the supervision of the evacuees from the Army's assembly centers. With that final destination put in the hands of a civilian agency, the Army was ready to push firmly ahead with its part of the evacuation.

Once Public Proclamation No. 4 took effect on March 29, and persons of Japanese ancestry were barred from moving out of Military Area No. 1, systematic mandatory evacuation began. Both the evacuation and the operation of the assembly centers were under the authority of the Army, by agreement with the War Relocation Authority. Evacuation was under military supervision. The centers themselves were operated by the Wartime Civil Control Administration (WCCA), the civilian branch of the Western Defense Command. Ninety-nine geographic exclusion areas were established in Military Area No. 1; an additional nine were specified later. The California portion of Military Area No. 2 was declared a prohibited area in June.⁵⁸ Areas regarded as militarily sensitive were evacuated first. The order of evacuation was kept secret "so that the information would not reach any affected person within the area." Once announced, each evacuation

plan gave seven days from the date of posting the order until the movement of evacuees.⁵⁹

The small-scale evacuation of Terminal Island was a precursor of the mass evacuation of the West Coast and provides a vivid impression of the hardship brought by evacuation. Roughly six miles long and a half-mile wide, Terminal Island marks the boundaries of Los Angeles Harbor and the Cerritos Channel. Lying directly across the harbor from San Pedro, the island was reached in 1941 by ferry or a small drawbridge.

The Japanese community on the island was isolated, primarily occupied in fishing and canning. A half-dozen canneries, each with its own employee housing, were located on the island.⁶⁰ In 1942 the Japanese population of Terminal Island was approximately 3,500, of whom half were American-born.⁶¹ Most of the businesses which served the island were owned or operated by Issei or Nisei. The island economy supported restaurants, groceries, barbershops, beauty shops and poolhalls in addition to three physicians and two dentists.⁶²

On February 10, 1942, the Department of Justice posted a warning that all Japanese aliens had to leave the island by the following Monday. The next day, a Presidential order placed Terminal Island under the jurisdiction of the Navy. By the 15th, Secretary of the Navy Knox had directed that the Terminal Island residents be notified that their dwellings would be condemned, effective in about 30 days.⁶³ Even this pace was too slow: on February 25 the Navy informed the Terminal Islanders that they had 48 hours to leave the island. Many were unprepared for such a precipitous move.

The FBI had previously removed individuals who were considered dangerous aliens on December 7, 1941, and followed this by "daily dawn raids . . . removing several hundred more aliens."⁶⁴ As a consequence, the heads of many families were gone and mainly older women and minor children were left.⁶⁵ With the new edict, these women and children, who were unaccustomed to handling business transactions, were forced to make quick financial decisions. With little time or experience, there was no opportunity to effect a reasonable disposition.

Dr. Yoshihiko Fujikawa, a resident of Terminal Island, described the scene prior to evacuation:

It was during these 48 hours that I witnessed unscrupulous vultures in the form of human beings taking advantage of bewildered housewives whose husbands had been rounded up by the F.B.I. within 48 hours after Pearl Harbor. They were offered pittance

for practically new furniture and appliances: refrigerators, radio consoles, etc., as well as cars, and many were falling prey to these people.⁶⁶

The day after evacuation, Terminal Island was littered with abandoned household goods and equipment.⁶⁷ Henry Murakami's loss was typical. He had become a fisherman after graduating from high school. After gaining experience he leased a boat from Van Camp Seafood Company and went out on his own, saving money to increase and to improve his equipment:

By the time World War II had started, I was now the owner of 3 sets of purse seine nets. These nets were hard to get and the approximate costs of these nets in 1941 were:

set of nets for Tuna	\$10,000
set of nets for Mackerel	\$7,500
set of nets for Sardines	\$5,000

When Pearl Harbor was attacked we were stopped from going out to fish and told to remain in our fishing camp.⁶⁸

In early February, along with every alien male on Terminal Island who held a fisherman's license, Murakami was arrested and sent to Bismarck, North Dakota. His equipment lay abandoned, accessible for the taking.

The first exclusion order under the Army program was issued for Bainbridge Island near Seattle in Puget Sound, an area the Navy regarded as highly sensitive. It is illustrative of the Army's evacuation process. The order was issued on March 24, 1942, for an evacuation a week later⁶⁹ that was carried out under the direction of Bendetsen, who had been promoted to colonel and put in charge of the evacuation by DeWitt as head of the WCCA, which operated in conjunction with other federal agencies.⁷⁰

Tom G. Rathbone, field supervisor for the U.S. Employment Service, filed a report after the Bainbridge Island evacuation, with suggestions for improvement which give a clear picture of the government's approach. A meeting to outline evacuation procedures was called on March 23; representatives of a number of federal agencies were present. After setting up offices on the island, the government group "reported to Center at 8:00 a.m. . . . for the purpose of conducting a complete registration of the forty-five families of persons of Japanese ancestry who were residents of the Island." Rathbone suggested that more complete instructions from Army authorities would clarify many problems, including what articles could be taken, climate at the assembly centers and timing of evacuation. He also suggested better planning so that the evacuees would not be required to return re-

peatedly to the center: "such planning would have to contemplate the ability to answer the type of question [sic] which occur and the ability to give accurate and definite information which would enable the evacuee to close out his business and be prepared to report at the designated point with necessary baggage, etc." Further, Rathbone noted that disposition of evacuees' property following relocation caused the most serious hardship and prompted the most questions. He reported:

We received tentative information late Friday afternoon to the effect that it was presumed that the Government would pay the transportation costs of such personal belongings and equipment to the point of relocation upon proper notice. When this word was given to the evacuees, many complained bitterly because they had not been given such information prior to that time and had, therefore, sold, at considerable loss, many such properties which they would have retained had they known that it would be shipped to them upon relocation. Saturday morning we receive additional word through the Federal Reserve Bank that the question had not been answered and that probably no such transportation costs would be paid. Between the time on Friday afternoon and Saturday morning some Japanese had arranged to repossess belongings which they had already sold and were in a greater turmoil than ever upon getting the latter information. To my knowledge, there still is no answer to this question, but it should be definitely decided before the next evacuation is attempted.⁷¹

After the Bainbridge evacuation, exclusion orders were issued for each of the other 98 exclusion areas in Military Area No. 1 and areas "were evacuated in the order indicated by the Civilian Exclusion Order number with but a few exceptions."⁷² (A typical order, with map and instructions attached, appears after page 111.)

Later evacuations were better organized, but difficulties persisted. The handling of evacuee property presented a major problem for the government; one to which considerable, only partially successful effort was addressed. Congressman Tolan had sent a telegram to Attorney General Biddle on February 28, first urging the appointment of an Alien Property Custodian at the same time as an evacuation order was issued and the appointment of a coordinator for other enemy alien problems; Tolan did not address the problems of property protection or relocation assistance for citizens.⁷³ When McCloy informed Harry Hopkins of evacuees' property problems, he asked that a property custodian be appointed.⁷⁴ Hopkins replied that aliens' property could already be protected through the Treasury Department; as to the property of citizens, if McCloy would draw up documents for the President to sign, Hopkins thought a custodian for citizens' property was a good

idea.⁷⁵ The War Department drew up the papers,⁷⁶ but the custodial plan did not go through; instead the Treasury Department directed the Federal Reserve Board to assist evacuees in disposing of their property—"not a custodianship matter at all but a sort of free banking service."⁷⁷ For years to come, problems of property disposal and protection continued to haunt the evacuees and the federal government.

A minor but illuminating problem occurred when the Navy language school, which had Japanese personnel, realized it would have to relocate from Monterey to a place inland. The Navy was not pleased, but DeWitt prevailed once more, showing that he would enforce his authority to the letter without regard to the consequences for other government agencies or services.⁷⁸ There were no cases that merited making exceptions.

On May 23, 1942, Bendetsen spoke to the Commonwealth Club of San Francisco and reported that evacuation would be nearly completed by the end of May.⁷⁹ By June 6, all Japanese Americans had been evacuated from Military Area No. 1 to the assembly centers.⁸⁰ On June 8, 1942, DeWitt issued Public Proclamation No. 7, which provided "should there be any areas remaining in Military Area No. 1 from which Japanese have not been excluded, the exclusion of all Japanese from these areas is provided for in this proclamation."⁸¹ By that proclamation, any ethnic Japanese remaining in the area and not exempt were ordered to report in person to the nearest assembly center.

In early June, the next stage of the evacuation occurred when, by Public Proclamation No. 6, DeWitt ordered the exclusion of Japanese aliens and American citizens of Japanese ancestry from the California portion of Military Area No. 2 on the grounds of military necessity.⁸² Earlier the voluntary evacuees had been encouraged to move inland with no suggestion that Military Area No. 2 in California or any other state would be cleared of ethnic Japanese.⁸³ Indeed, in late April, Bendetsen was still resisting the politicians and agricultural interests who were pushing for expansion of the exclusion zone beyond Military Area No. 1.⁸⁴ The exclusion from the California portion of Military Area No. 2 appears to have been decided without any additional evidence of threat or danger in the area. The *Final Report* lamely explains this change:

Military Area No. 2 in California was evacuated because (1) geographically and strategically the eastern boundary of the State of California approximates the easterly limit of Military Area No. 1 in Washington and Oregon . . . and because (2) the natural forests

FIGURE A: An Exclusion Order

**Headquarters
Western Defense Command
and Fourth Army
Presidio of San Francisco, California
April 30, 1942**

Civilian Exclusion Order No. 27

1. Pursuant to the provisions of Public Proclamations Nos. 1 and 2, this Headquarters, dated March 2, 1942, and March 16, 1942, respectively, it is hereby ordered that from and after 12 o'clock noon, P.W.T., of Thursday, May 1942, all persons of Japanese ancestry, both alien and non-alien, be excluded from that portion of Military Area No. 1 described as follows:

All of that portion of the County of Alameda, State of California, within that boundary beginning at the point at which the southerly limits of the City of Berkeley meet San Francisco Bay; thence easterly and following the southerly limits of said city to College Avenue; thence southerly on College Avenue to Broadway; thence southerly on Broadway to the southerly limits of the City of Oakland; thence following the limits of said city westerly and northerly, and following the shoreline of San Francisco Bay to the point of beginning.

2. A responsible member of each family, and each individual living alone, the above described area will report between the hours of 8:00 A. M. and 10 P. M., Friday, May 1, 1942, or during the same hours on Saturday, May 1942, to the Civil Control Station located at:

530 Eighteenth Street
Oakland, California.

3. Any person subject to this order who fails to comply with any of its provisions or with the provisions of published instructions pertaining hereto who is found in the above area after 12 o'clock noon, P.W.T., of Thursday, May 7, 1942, will be liable to the criminal penalties provided by Public Law 503, 77th Congress, approved March 21, 1942 entitled "An Act to Provide Penalty for Violation of Restrictions or Orders with Respect to Persons Entering, Remaining in, Leaving, or Committing any Act in Military Areas Zones," and alien Japanese will be subject to immediate apprehension and imprisonment.

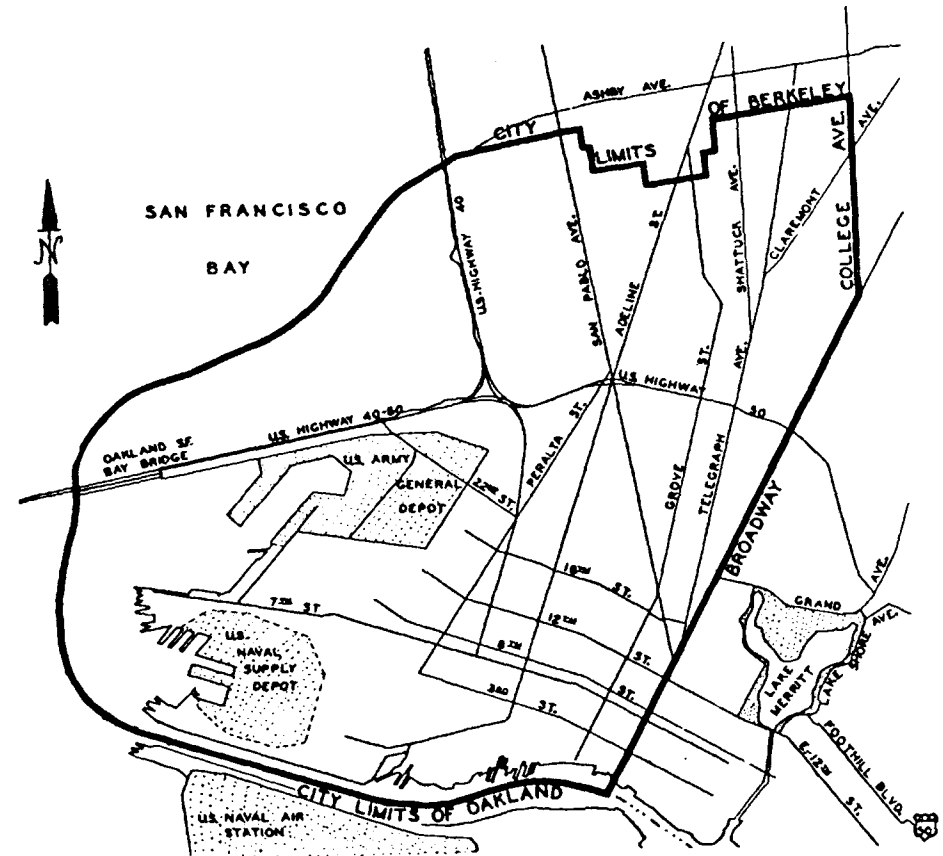
4. All persons within the bounds of an established Assembly Center pursuant to instructions from this Headquarters are excepted from the provisions of this order while those persons are in such Assembly Center.

J. L. DEWITT
Lieutenant General, U. S. Army
Commanding

Source: J. L. DeWitt, *Final Report: Japanese Evacuation from the West Coast, 1942* (1943), p. 97.

FIGURE B: Map of a Prohibited Area

**PROHIBITED AREA
EXCLUSION ORDER NO. 27
Western Defense Command and Fourth Army**



C. E. Order 27

This Map is prepared for the convenience of the public; see the Civilian Exclusion Order for the full and correct description.

Source: J. L. DeWitt, *Final Report: Japanese Evacuation from the West Coast, 1942* (1943), p. 98.

FIGURE C: Instructions to Evacuees

**WESTERN DEFENSE COMMAND AND FOURTH ARMY
WARTIME CIVIL CONTROL ADMINISTRATION**

Presidio of San Francisco, California

**INSTRUCTIONS
TO ALL PERSONS OF
JAPANESE
ANCESTRY**

LIVING IN THE FOLLOWING AREA:

All of that portion of the County of Alameda, State of California, within that boundary beginning at the point at which the southerly limits of the City of Berkeley meet San Francisco Bay; thence easterly and following the southerly limits of said city to College Avenue; thence southerly on College Avenue to Broadway; thence southerly on Broadway to the southerly limits of the City of Oakland; thence following the limits of said city westerly and northerly, and following the shoreline of San Francisco Bay to the point of beginning.

Pursuant to the provisions of Civilian Exclusion Order No. 27, this Headquarters, dated April 30, 1942, all persons of Japanese ancestry, both alien and -alien, will be evacuated from the above area by 12 o'clock noon, P.W.T., Thursday May 7, 1942.

No Japanese person living in the above area will be permitted to change residence after 12 o'clock noon, P.W.T., Thursday, April 30, 1942, without obtaining special permission from the representative of the Commanding General, Northern California Sector, at the Civil Control Station located at:

530 Eighteenth Street,
Oakland, California.

Such permits will only be granted for the purpose of uniting members of a family, or in cases of grave emergency.

The Civil Control Station is equipped to assist the Japanese population evacuated by this evacuation in the following ways:

1. Give advice and instructions on the evacuation.
2. Provide services with respect to the management, leasing, sale, storage and other disposition of most kinds of property, such as real estate, business and professional equipment, household goods, boats, automobiles and livestock.
3. Provide temporary residence elsewhere for all Japanese in family groups.
4. Transport persons and a limited amount of clothing and equipment to their new residence.

THE FOLLOWING INSTRUCTIONS MUST BE OBSERVED:

1. A responsible member of each family, preferably the head of the family, or the person in whose name most of the property is held, and each individual living alone, will report to the Civil Control Station to receive further instructions. This must be done between 8:00 A. M. and 5:00 P. M. on Friday, May 1, 1942, or between 8:00 A. M. and 5:00 P. M. on Saturday, May 2, 1942.

2. Evacuees must carry with them on departure for the Assembly Center, the following property:

- (a) Bedding and linens (no mattress) for each member of the family;
- (b) Toilet articles for each member of the family;
- (c) Extra clothing for each member of the family;
- (d) Sufficient knives, forks, spoons, plates, bowls and cups for each member of the family;
- (e) Essential personal effects for each member of the family.

All items carried will be securely packaged, tied and plainly marked with the name of the owner and numbered in accordance with instructions obtained at the Civil Control Station. The size and number of packages is limited to that which can be carried by the individual or family group.

3. No pets of any kind will be permitted.

4. No personal items and no household goods will be shipped to the Assembly Center.

5. The United States Government through its agencies will provide for the storage at the sole risk of the owner of the more substantial household items, such as iceboxes, washing machines, pianos and other heavy furniture. Cooking utensils and other small items will be accepted for storage if crated, packed and plainly marked with the name and address of the owner. Only one name and address will be used by a given family.

6. Each family, and individual living alone will be furnished transportation to the Assembly Center or will be authorized to travel by private automobile in a supervised group. All instructions pertaining to the movement will be obtained at the Civil Control Station.

Go to the Civil Control Station between the hours of 8:00 A. M. and 5:00 P. M., Friday, May 1, 1942, or between the hours of 8:00 A. M. and 5:00 P. M., Saturday, May 2, 1942, to receive further instructions.

J. L. DEWITT
Lieutenant General, U. S. Army
Commanding

April 30, 1942

See Civilian Exclusion Order No. 27.

Source: J. L. DeWitt, *Final Report: Japanese Evacuation from the West Coast, 1942* (1943), pp. 99-100.

and mountain barriers, from which it was determined to exclude all Japanese, lie in Military Area No. 2 in California, although these lie in Military Area No. 1 of Washington and Oregon.⁸⁵

It is hard to believe that this is a candid analysis of the decision. The eastern boundary of California lies more than 100 miles east of Military Area No. 1 at the Oregon border. If there had been a general decision to exclude the ethnic Japanese from forests and mountains, why had they been allowed to resettle in Military Area No. 2? Morton Grodzins carefully analyzed this second exclusion decision and made a persuasive case that it was another example of the Western Defense Command adopting an utterly unsound military rationale to carry out the program of politicians, agriculturalists and agitators in eastern California who were intent on removing all ethnic Japanese from the state.⁸⁶

Whatever the motivation, there were two obvious results: the "voluntary" evacuees who had resettled in eastern California were uprooted a second time, and, by August 18, 1942, everyone of Japanese descent had been expelled from the entire state of California except for those under guard at the Tule Lake and Manzanar camps and a small handful under constant supervision in hospitals and prisons.⁸⁷ California's anti-Japanese faction had triumphed.

PUBLIC OPINION AND PROTEST

From March 28 to April 7, as the program evolved from voluntary to mandatory evacuation, the Office of Facts and Figures in the Office for Emergency Management polled public opinion about aliens in the population. Germans were considered the most dangerous alien group in the United States by 46 percent of those interviewed; the Japanese, by 35 percent. There was virtual consensus that the government had done the right thing in moving Japanese aliens away from the coast; 59 percent of the interviewees also favored moving American citizens of Japanese ancestry. The answers reflected clear educational and geographic differences. Relatively uneducated respondents were more likely to consider the Japanese the most dangerous alien group, and they were also disposed to advocate harsher treatment of the Japanese who were moved away from the coast. The east considered the Germans most dangerous, the west the Japanese. People in the south, in particular, were prone to treat Japanese harshly. The Pacific Coast

public led all other regions in believing the evacuees should be paid less than prevailing wages.⁸⁸

Despite the strong endorsement of public opinion, protest against the mass evacuation continued through a small but steady stream of letters and public statements and through litigation which contested the enforcement of the curfew and exclusion orders.

Protest was most common among church figures and academics. The Federal Council of Churches and the Home Missions Council had already made known their views that the evacuation of American citizens of Japanese ancestry was wasting a national resource.⁸⁹ Mrs. Roosevelt sent along to McCloy the objections of Virginia Swanson, a Baptist missionary.⁹⁰ Eric C. Bellquist, a professor of political science at Berkeley, presented to the Tolan Committee a lengthy and remarkably well-informed analysis which forcefully dissented from the policy of exclusion and evacuation.⁹¹ A few days later, Monroe Deutsch, Provost of the University of California, sent a telegram to Justice Felix Frankfurter protesting evacuation of people, including the Japanese, identified only as members of a group. To Deutsch this struck "an unprecedented blow at all our American principles."⁹² He did not receive any support in that quarter; an exchange between Frankfurter and McCloy concluded with the Justice assuring the Assistant Secretary that he was handling a delicate matter with both wisdom and appropriate hard-headedness.⁹³

The second stream of protest came through court challenges to the curfew and evacuation. Although the Japanese American Citizens League firmly opposed test litigation,⁹⁴ several individuals either brought lawsuits challenging the government's actions or failed to obey requirements, thereby challenging the legality of curfew and evacuation.

On April 13, 1942, Mary Ventura, an American citizen of Japanese ancestry married to a Filipino, filed a habeas corpus petition in the federal district court in the State of Washington to challenge the curfew and other restrictions imposed on her. The court denied the petition on the ground that, because Mrs. Ventura had not violated the curfew and was not in custody, she was not entitled to the remedy of habeas corpus which provides release from custody. But, in addition, the judge discussed the reasons why he would be likely to deny her petition on the merits:

The question here should be viewed with common sense consideration of the situation that confronts this nation now—that confronts this coast today. These are critical days. To strain some technical right of petitioning wife to defeat the military needs in

this vital area during this extraordinary time could mean perhaps that the "constitution, laws, institutions" of this country to which her petition alleges she is "loyal and devoted" would be for a time destroyed here on Puget Sound by an invading army. . . .

The petitioners allege that the wife "has no dual citizenship," that she is in no "manner a citizen or subject of the Empire of Japan." But how many in this court room doubt that in Tokyo they consider all of Japanese ancestry though born in the United States to be citizens or subjects of the Japanese Imperial Government? How many here believe that if our enemies should manage to send a suicide squadron of parachutists to Puget Sound that the Enemy High Command would not hope for assistance from many such American-born Japanese?

I do not believe the Constitution of the United States is so unfitted for survival that it unyieldingly prevents the President and the Military, pursuant to law enacted by the Congress, from restricting the movement of civilians such as petitioner, regardless of how actually loyal they perhaps may be, in critical military areas desperately essential for national defense.

Aside from any rights involved it seems to me that if petitioner is as loyal and devoted as her petition avers she would be glad to conform to the precautions which Congress, the President, the armed forces, deem requisite to preserve the Constitution, laws and institutions for her and all Americans, born here or naturalized.⁹⁵

Habeas petitions should have been a particularly attractive vehicle testing the military orders, since the Nisei would not have to come to court under arrest in violation of the law as written, but even the writ was no help in the crisis of 1942; obviously the War Department would not be put through a critical review of its decision by a judge.⁹⁶

The Nisei received no greater measure of relief in the criminal cases. Minoru Yasui was a member of the Oregon bar and reserve officer in the Army who was working for the Consulate General of Japan in Chicago at the time of Pearl Harbor. He immediately resigned his consular position and sought to go on active duty with the Army, which would not accept him. In March he decided to violate the curfew regulations in order to test their constitutionality and was indicted by grand jury. Yasui moved to dismiss the indictment on the ground that the curfew order was unconstitutional as applied to American citizens. The district judge agreed, but found that Yasui by his work for the consulate had renounced his citizenship, and proceeded to convict him as an alien of violating the curfew order.⁹⁷ Although sat-

isfied with the result, the Justice Department did not support this outlandish theory.

Gordon Hirabayashi, an American-born university student in Seattle who was a Quaker and conscientious objector to military service, declined to report to the WCCA evacuation center. Hirabayashi was arrested for violating the curfew and failing to report and was convicted on May 16, 1942.⁹⁸ His case and Yasui's were decided by the Supreme Court on June 21, 1943; the Court restored Yasui's citizenship, but upheld the convictions for violation of the curfew regulations.⁹⁹

Other arrests resulted in convictions and sentences or in guilty pleas and suspended sentences conditional upon compliance with the curfew or evacuation orders.¹⁰⁰ Perhaps the clearest irony in the court challenges was that of Lincoln Kanai, a citizen who failed to leave San Francisco after the evacuation proclamation. While released following his arrest, Kanai left the area, then presented a habeas petition to the federal district court in Wisconsin. The judge held that he would not substitute his judgment for that of the generals regarding the proper extent of military areas. Kanai was brought back to San Francisco to stand trial; he pled guilty, and on August 27, 1942, was sentenced to six months' imprisonment.¹⁰¹

This was an extreme example of General DeWitt's unbending policy of making no exceptions to strict enforcement of the exclusion and evacuation in order to help the government's legal posture. Apart from his personal inclinations, DeWitt had been advised that "If we should consent to the exemption in [one] particular case, we have opened up the whole subject of the evacuation of citizen Japanese. We would be extremely unfair to those who have cooperated by voluntary movement and to those in similar circumstances, who have been evacuated to Santa Anita and Manzanar." He responded, "*No exemptions of Japanese.*"¹⁰²

It was not until later in 1943, after the Supreme Court decisions in *Hirabayashi* and *Yasui*, that district courts critically examined claims of military necessity as the basis for exclusion. Two orders individually excluding Maximilian Ebel and Olga Schueller, naturalized American citizens of German descent, from the Eastern Defense Command were struck down by the courts.¹⁰³ In these cases the military was put to its proof as to both the military importance of the eastern seaboard and the threat posed by the excluded person. The evidence about the East Coast is probably on a par with what could have been produced on the West Coast:

The evidence introduced through officers of Military Intelligence showed that the Eastern Military Area since the beginning of hostilities and up to the present date is known as a "sensitive area" (an area in which are located large concentrations of war-time installations or activities and also an area in which observation can be made and information valuable to the enemy can readily be obtained); that the area is open to offensive action and maneuvers; that it is exposed to direct attack by air and because of the tremendous amount of war installations and utilities exposed to sabotage. The evidence further showed that the area covering less than 14% of the land area of the United States includes about 40% of the population and over 60% of all plants manufacturing tools. There is also contained in this area a major portion of war-time installations and naval activities. It is the seat of the federal government and installations of management over communications. There are vast freight movements of supplies and equipment passing over its transportation lines; ship movements of men and supplies with their convoys and naval activities are easily discernible in this area.¹⁰⁴

The government's evidence was clearly focused on the persons to be excluded as it had never been in the Nisei cases. Ebel, for instance, who served in the German Army in World War I, was president of the youth branch of the Kyffhaeuser Bund from at least 1939 to January 2, 1942, when the group was disbanded. "This Bund was one of the most international German societies in America in its encouragement of the military spirit and keeping alive the love of Germany in the hearts of former German soldiers and civilians."¹⁰⁵

The courts did not in any way dispute the legal standards established in *Hirabayashi*. Nevertheless, in testing whether, under the circumstances, there was military danger on the East Coast in 1942 sufficient to justify depriving citizens of the right to live and conduct business where they chose, the courts concluded that they had to determine whether the degree of restriction bore a reasonable relation to the degree of danger. In both cases the restriction was found excessive and the exclusion order struck down.

Surely an impartial judge would have reached the same conclusion on the West Coast in 1942 had the military been put to its proof against the Nisei with unquestionable records of loyalty to the United States. How could a conscientious objector like *Hirabayashi* seriously be considered a threat to the security of Seattle? But in the spring of 1942 on the West Coast, not even the courts of the United States were places of impartial and dispassionate justice.

4

Economic Loss

Exclusion from the West Coast imposed very substantial economic losses on the Nikkei. The complete picture of those losses is a mosaic of thousands of personal histories of individual families. Owners and operators of farms and businesses either sold their income-producing assets under distress-sale circumstances on very short notice or attempted, with or without government help, to place their property in the custody of people remaining on the Coast. The effectiveness of these measures varied greatly in protecting evacuees' economic interests. Homes had to be sold or left without the personal attention that owners would devote to them. Businesses lost their good will, their reputation, their customers. Professionals had their careers disrupted. Not only did many suffer major losses during evacuation, but their economic circumstances deteriorated further while they were in camp. The years of exclusion were frequently punctuated by financial troubles: trying to look after property without being on the scene when difficulties arose; lacking a source of income to meet tax, mortgage and insurance payments. Goods were lost or stolen. Income and earning capacity were reduced to almost nothing during the long detention in relocation centers, and after the war life had to be started anew on meager resources. War disrupted the economic well-being of thousands of Americans, but the distinct situation of the Nikkei—unable to rely on family or, often, on close friends to tend their affairs—involved demonstrably greater hardship, anxiety and loss than other Americans