

Japanese Latin American Commission Bill: HSGAC Mark-Up: 2007 June 13

Senator Daniel K. Inouye Papers

Japanese Latin American Internment, Box JL10, Folder 1

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JLA Commission Bill

HSGAC Mark-up

June 13, 2007



CONGRESSIONAL BUDGET OFFICE
COST ESTIMATE

Voice vote
version of HSBWA
approved 11/11/06
C/S
NO COST.

June 18, 2007

S. 381

**Commission on Wartime Relocation and Internment
of Latin Americans of Japanese Descent Act**

*As ordered reported by the Senate Committee on Homeland Security
and Governmental Affairs on June 13, 2007*

S. 381 would establish the Commission on Wartime Relocation and Internment of Latin Americans of Japanese Descent to investigate and determine the facts and circumstances surrounding the relocation, internment, and deportation of Latin Americans of Japanese descent from December 1941 through February 1948.

Under S. 381, nine commission members—three appointed by the President, three appointed by the Speaker of the House of Representative, and three appointed by the President pro tempore of the Senate—would have one year to report to the Congress on its findings, recommendations, and possible remedies. Commission members who are not federal employees would be compensated for their services. In addition, all commission members would be reimbursed for travel expenses. Under the bill, the commission could hire staff or use personnel detailed from other federal agencies. The commission would terminate 90 days after submitting its final report.

Based on the costs of similar commissions, CBO estimates that the commission would spend about \$500,000 over the 2008-2009 period subject to appropriation of the necessary amounts. Enacting the bill would not affect direct spending or revenues. The legislation does not authorize any payment of restitution; such authority would require a separate act of the Congress.

S. 381 would impose both intergovernmental and private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) because it would establish a commission with the authority to subpoena information. State, local, and tribal governments, as well as private-sector entities, if subpoenaed by the commission, would be required to provide testimony, documents, or other evidence. CBO expects that the commission would likely exercise this authority sparingly and that the costs to comply with a subpoena would not be significant. Thus, CBO estimates that the costs to those governments and private-sector entities would be small and well below the annual thresholds established in UMRA (\$66 million for

intergovernmental mandates and \$131 million for private-sector mandates in 2007, adjusted annually for inflation). Furthermore, S. 381 would direct the commission to pay a per diem and mileage allowance to any witness who appears before the commission from funds available to pay the expenses of the commission.

The CBO staff contacts for this estimate are Matthew Pickford (for federal costs), Elizabeth Cove (for state and local impact), and Jacob Kuipers (for the private-sector impact). This estimate was approved by Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.



United States Senate

Committee on Homeland Security and Governmental Affairs

Senator Joseph I. Lieberman, Chairman

Senator Susan M. Collins, Ranking Member

BUSINESS MEETING

Wednesday, June 13, 2007

10 a.m.

342 Dirksen Senate Office Building

AGENDA

Legislation

1. S. 1257, District of Columbia House Voting Rights Act of 2007;
2. S. 274, Federal Employee Protection of Disclosures Act; *UC for ACA*
3. H.R. 1254, Presidential Library Donation Reform Act of 2007;
4. S. Res. 22, a resolution reaffirming the constitutional and statutory protections accorded sealed domestic mail, and for other purposes;
5. S. 967, Federal Supervisor Training Act of 2007; *UC for ACA*
6. S. 1046, Senior Professional Performance Act of 2007;
7. S. 1099, a bill to amend chapter 89 of title 5, U.S. Code, to make individuals employed by the Roosevelt Campobello International Park Commission eligible to obtain Federal health insurance;
8. ~~S. 507, a bill to extend the special postage stamp for breast cancer research for 2 years;~~
9. H.R. 1255/S. 886, Presidential Records Act Amendments of 2007;
10. S. 381, Commission on Wartime Relocation and Internment of Latin Americans of Japanese Descent Act.

TO DO:

(1) memo clarifying Mochizuki and dispositions
of all cases related to JUA's

Japanese Latin American Commission Bill

Section 1 SHORT TITLE

The Commission on Wartime Relocation and Internment of Latin Americans of Japanese Descent Act

Section 2 FINDINGS AND PURPOSE

FINDINGS

Based upon a preliminary study published in December 1982 by the Commission on Wartime Relocation and Internment of Civilians, Congress finds that:

- 2,300 JLAs were relocated from their homes in Latin America, interned in the U.S., and in some cases, deported to Axis countries for prisoner exchanges.
- The 1982 Commission found that although interning JLAs was not conducted pursuant to Executive Order 9066, examining this program would complete the account of the internment of people of Japanese ancestry.
- The 1982 Commission found out about the JLA internment too late and did not fully research materials housed in distant archives across 13 Latin American countries.
- JLA internees were not covered by the Civil Liberties Act of 1988, which formally apologized and provided compensation payments to former Japanese Americans.

PURPOSE

Establish a fact-finding Commission to extend the 1982 Commission's study to investigate facts and circumstances about the relocation, internment, and deportation of JLAs. The Commission will recommend appropriate remedies, if any, based on new discoveries.

Section 3 ESTABLISHMENT OF THE COMMISSION

Establish a Commission composed of 9 members, in which the

- President,
- Speaker of the House of Representatives,
- President pro tempore of the Senate

shall each appoint 3 members within 60 days of enactment. In both the House and Senate, the appointment shall be made upon the joint recommendation of the majority and minority leaders.

Quorum shall consist of 5 Commission members, but fewer than 5 members may hold hearings.

The Commission shall elect a Chairperson and Vice Chairperson from among its members.

Commissioners shall be appointed for the life of the Commission.

The President shall call the first meeting within

- 60 days of enactment, or
- 30 days after appropriations.

Section 4 DUTIES OF THE COMMISSION

The Act proposes to establish the following duties of the Commission:

- Extend the study of the 1982 Commission to investigate and determine facts and circumstances surrounding the United States' relocation, internment, and deportation of JLAs, and the impacts of those actions by the United States
- Recommend appropriate remedies, if any, based on preliminary findings by the original Commission and new discoveries

Not later than 1 year after the date of the first meeting, the Commission shall submit a written report on its findings and recommendations to Congress.

Section 5 POWERS OF THE COMMISSION

The Commission shall

- Hold public hearings,
- Give testimony,
- Receive evidence, and
- Administer oaths.

The Commission may also issue and enforce subpoenas

- Requiring the attendance and testimony of witnesses,
- Producing other physical evidence and materials.

Witnesses shall be compensated per diem and mileage allowances from funds available to pay the expenses of the Commission.

The Commission may secure information necessary to perform its duties from any Federal department or agency.

Section 6 PERSONNEL AND ADMINISTRATIVE PROVISIONS

- Commission member who is not an officer or employee of the Federal Government shall be compensated for each day, including travel time, during which the member is engaged in Commission duties.
- Commission member who is an officer or employee of the United States shall serve without compensation.

Section 7 TERMINATION

The Commission terminates 90 days after the date on which the Commission submits its report to Congress.

S 381 IS

110th CONGRESS

1st Session

S. 381

To establish a fact-finding Commission to extend the study of a prior Commission to investigate and determine facts and circumstances surrounding the relocation, internment, and deportation to Axis countries of Latin Americans of Japanese descent from December 1941 through February 1948, and the impact of those actions by the United States, and to recommend appropriate remedies, and for other purposes.

IN THE SENATE OF THE UNITED STATES**January 24, 2007**

Mr. INOUE (for himself, Mr. STEVENS, Mr. LEVIN, Mr. LEAHY, Ms. MURKOWSKI, Mr. AKAKA, and Mr. BENNETT) introduced the following bill; which was read twice and referred to the Committee on Homeland Security and Governmental Affairs

A BILL

To establish a fact-finding Commission to extend the study of a prior Commission to investigate and determine facts and circumstances surrounding the relocation, internment, and deportation to Axis countries of Latin Americans of Japanese descent from December 1941 through February 1948, and the impact of those actions by the United States, and to recommend appropriate remedies, and for other purposes.

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

SECTION 1. SHORT TITLE.

This Act may be cited as the 'Commission on Wartime Relocation and Internment of Latin Americans of Japanese Descent Act'.

SEC. 2. FINDINGS AND PURPOSE.

(a) Findings- Based on a preliminary study published in December 1982 by the Commission on Wartime Relocation and Internment of Civilians, Congress finds the following:

(1) During World War II, the United States--

(A) expanded its internment program and national security investigations to conduct the program and investigations in Latin America; and

(B) financed relocation to the United States, and internment, of approximately 2,300 Latin Americans of Japanese descent, for the purpose of exchanging the Latin Americans of Japanese descent for United States citizens held by Axis countries.

(2) Approximately 2,300 men, women, and children of Japanese descent from 13 Latin American countries were held in the custody of the Department of State in internment camps operated by the Immigration and Naturalization Service from 1941 through 1948.

(3) Those men, women, and children either--

(A) were arrested without a warrant, hearing, or indictment by local police, and sent to the United States for internment; or

(B) in some cases involving women and children, voluntarily entered internment camps to remain with their arrested husbands, fathers, and other male relatives.

(4) Passports held by individuals who were Latin Americans of Japanese descent were routinely confiscated before the individuals arrived in the United States, and the Department of State ordered United States consuls in Latin American countries to refuse to issue visas to the individuals prior to departure.

(5) Despite their involuntary arrival, Latin American internees of Japanese descent were considered to be and treated as illegal entrants by the Immigration and Naturalization Service. Thus, the internees became illegal aliens in United States custody who were subject to deportation proceedings for immediate removal from the United States. In some cases, Latin American internees of Japanese descent were deported to Axis countries to enable the United States to conduct prisoner exchanges.

(6) Approximately 2,300 men, women, and children of Japanese descent were relocated from their homes in Latin America, detained in internment camps in the United States, and in some cases, deported to Axis countries to enable the United States to conduct prisoner exchanges.

(7) The Commission on Wartime Relocation and Internment of Civilians studied Federal actions conducted pursuant to Executive Order 9066 (relating to authorizing the Secretary of War to prescribe military areas). Although the United States program of interning Latin Americans of

Japanese descent was not conducted pursuant to Executive Order 9066, an examination of that extraordinary program is necessary to establish a complete account of Federal actions to detain and intern civilians of enemy or foreign nationality, particularly of Japanese descent. Although historical documents relating to the program exist in distant archives, the Commission on Wartime Relocation and Internment of Civilians did not research those documents.

(8) Latin American internees of Japanese descent were a group not covered by the Civil Liberties Act of 1988 (50 U.S.C. App. 1989b et seq.), which formally apologized and provided compensation payments to former Japanese Americans interned pursuant to Executive Order 9066.

(b) Purpose- The purpose of this Act is to establish a fact-finding Commission to extend the study of the Commission on Wartime Relocation and Internment of Civilians to investigate and determine facts and circumstances surrounding the relocation, internment, and deportation to Axis countries of Latin Americans of Japanese descent from December 1941 through February 1948, and the impact of those actions by the United States, and to recommend appropriate remedies, if any, based on preliminary findings by the original Commission and new discoveries.

SEC. 3. ESTABLISHMENT OF THE COMMISSION.

(a) In General- There is established the Commission on Wartime Relocation and Internment of Latin Americans of Japanese descent (referred to in this Act as the `Commission').

(b) Composition- The Commission shall be composed of 9 members, who shall be appointed not later than 60 days after the date of enactment of this Act, of whom--

(1) 3 members shall be appointed by the President;

(2) 3 members shall be appointed by the Speaker of the House of Representatives, on the joint recommendation of the majority leader of the House of Representatives and the minority leader of the House of Representatives; and

(3) 3 members shall be appointed by the President pro tempore of the Senate, on the joint recommendation of the majority leader of the Senate and the minority leader of the Senate.

(c) Period of Appointment; Vacancies- Members shall be appointed for the life of the Commission. A vacancy in the Commission shall not affect its powers, but shall be filled in the same manner as the original appointment was made.

(d) Meetings-

(1) **FIRST MEETING-** The President shall call the first meeting of the Commission not later than the later of--

(A) 60 days after the date of enactment of this Act; or

(B) 30 days after the date of enactment of legislation making appropriations to carry out this Act.

(2) **SUBSEQUENT MEETINGS-** Except as provided in paragraph (1), the Commission shall meet at the call of the Chairperson.

(e) **Quorum-** Five members of the Commission shall constitute a quorum, but a lesser number of members may hold hearings.

(f) **Chairperson and Vice Chairperson-** The Commission shall elect a Chairperson and Vice Chairperson from among its members. The Chairperson and Vice Chairperson shall serve for the life of the Commission.

SEC. 4. DUTIES OF THE COMMISSION.

(a) **In General-** The Commission shall--

(1) extend the study of the Commission on Wartime Relocation and Internment of Civilians, established by the Commission on Wartime Relocation and Internment of Civilians Act--

(A) to investigate and determine facts and circumstances surrounding the United States' relocation, internment, and deportation to Axis countries of Latin Americans of Japanese descent from December 1941 through February 1948, and the impact of those actions by the United States; and

(B) in investigating those facts and circumstances, to review directives of the United States armed forces and the Department of State requiring the relocation, detention in internment camps, and deportation to Axis countries of Latin Americans of Japanese descent; and

(2) recommend appropriate remedies, if any, based on preliminary findings by the original Commission and new discoveries.

(b) **Report-** Not later than 1 year after the date of the first meeting of the Commission pursuant to section 3(d)(1), the Commission shall submit a written report to Congress, which shall contain findings resulting from the investigation conducted under subsection (a)(1) and recommendations described in subsection (a)(2).

SEC. 5. POWERS OF THE COMMISSION.

(a) Hearings- The Commission or, at its direction, any subcommittee or member of the Commission, may, for the purpose of carrying out this Act--

(1) hold such public hearings in such cities and countries, sit and act at such times and places, take such testimony, receive such evidence, and administer such oaths as the Commission or such subcommittee or member considers advisable; and

(2) require, by subpoena or otherwise, the attendance and testimony of such witnesses and the production of such books, records, correspondence, memoranda, papers, documents, tapes, and materials as the Commission or such subcommittee or member considers advisable.

(b) Issuance and Enforcement of Subpoenas-

(1) ISSUANCE- Subpoenas issued under subsection (a) shall bear the signature of the Chairperson of the Commission and shall be served by any person or class of persons designated by the Chairperson for that purpose.

(2) ENFORCEMENT- In the case of contumacy or failure to obey a subpoena issued under subsection (a), the United States district court for the judicial district in which the subpoenaed person resides, is served, or may be found may issue an order requiring such person to appear at any designated place to testify or to produce documentary or other evidence. Any failure to obey the order of the court may be punished by the court as a contempt of that court.

(c) Witness Allowances and Fees- Section 1821 of title 28, United States Code, shall apply to witnesses requested or subpoenaed to appear at any hearing of the Commission. The per diem and mileage allowances for witnesses shall be paid from funds available to pay the expenses of the Commission.

(d) Information From Federal Agencies- The Commission may secure directly from any Federal department or agency such information as the Commission considers necessary to perform its duties. Upon request of the Chairperson of the Commission, the head of such department or agency shall furnish such information to the Commission.

(e) Postal Services- The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the Federal Government.

SEC. 6. PERSONNEL AND ADMINISTRATIVE PROVISIONS.

(a) Compensation of Members- Each member of the Commission who is not

an officer or employee of the Federal Government shall be compensated at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which such member is engaged in the performance of the duties of the Commission. All members of the Commission who are officers or employees of the United States shall serve without compensation in addition to that received for their services as officers or employees of the United States.

(b) Travel Expenses- The members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Commission.

(c) Staff-

(1) IN GENERAL- The Chairperson of the Commission may, without regard to the civil service laws and regulations, appoint and terminate the employment of such personnel as may be necessary to enable the Commission to perform its duties.

(2) COMPENSATION- The Chairperson of the Commission may fix the compensation of the personnel without regard to chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates, except that the rate of pay for the personnel may not exceed the rate payable for level V of the Executive Schedule under section 5316 of such title.

(d) Detail of Government Employees- Any Federal Government employee may be detailed to the Commission without reimbursement, and such detail shall be without interruption or loss of civil service status or privilege.

(e) Procurement of Temporary and Intermittent Services- The Chairperson of the Commission may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, at rates for individuals that do not exceed the daily equivalent of the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of such title.

(f) Other Administrative Matters- The Commission may--

(1) enter into agreements with the Administrator of General Services to procure necessary financial and administrative services;

(2) enter into contracts to procure supplies, services, and property; and

(3) enter into contracts with Federal, State, or local agencies, or private institutions or organizations, for the conduct of research or surveys, the preparation of reports, and other activities necessary to enable the

Commission to perform its duties.

SEC. 7. TERMINATION.

The Commission shall terminate 90 days after the date on which the Commission submits its report to Congress under section 4(b).

SEC. 8. AUTHORIZATION OF APPROPRIATIONS.

(a) In General- There are authorized to be appropriated such sums as may be necessary to carry out this Act.

(b) Availability- Any sums appropriated under the authorization contained in this section shall remain available, without fiscal year limitation, until expended.

END

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S.381

Title: A bill to establish a fact-finding Commission to extend the study of a prior Commission to investigate and determine facts and circumstances surrounding the relocation, internment, and deportation to Axis countries of Latin Americans of Japanese descent from December 1941 through February 1948, and the impact of those actions by the United States, and to recommend appropriate remedies, and for other purposes.

Sponsor: [Sen Inouye, Daniel K.](#) [HI] (introduced 1/24/2007) [Cosponsors](#) (11)

Related Bills: [H.R.662](#)

Latest Major Action: 1/24/2007 Referred to Senate committee. Status: Read twice and referred to the Committee on Homeland Security and Governmental Affairs.

Jump to: [Summary](#), [Major Actions](#), [All Actions](#), [Titles](#), [Cosponsors](#), [Committees](#), [Related Bill Details](#), [Amendments](#)

SUMMARY AS OF:

1/24/2007--Introduced.

Commission on Wartime Relocation and Internment of Latin Americans of Japanese Descent Act - Establishes the Commission on Wartime Relocation and Internment of Latin Americans of Japanese descent.

Directs the Commission to: (1) extend the study of the Commission on Wartime Relocation and Internment of Civilians to investigate U.S. relocation, internment, and (in some cases) deportation to Axis countries of Latin Americans of Japanese descent held in U.S. custody from December 1941 through February 1948; and (2) recommend appropriate remedies to Congress based on preliminary findings by the original Commission and new discoveries.

Terminates the Commission 90 days after submission of its report to Congress (as required by this Act).

MAJOR ACTIONS:

NONE

ALL ACTIONS:

1/24/2007:

Sponsor introductory remarks on measure. (CR [S1065-1066](#))

1/24/2007:

Read twice and referred to the Committee on Homeland Security and Governmental Affairs. (text of measure as introduced: CR [S1066-1067](#))

TITLE(S): (*italics indicate a title for a portion of a bill*)

NONE

COSPONSORS(11), ALPHABETICAL [followed by Cosponsors withdrawn]: (Sort: [by date](#))

[Sen Akaka, Daniel K.](#) [HI] - 1/24/2007
[Sen Bennett, Robert F.](#) [UT] - 1/24/2007
[Sen Biden, Joseph R., Jr.](#) [DE] - 4/10/2007
[Sen Carper, Thomas R.](#) [DE] - 1/31/2007
[Sen Feingold, Russell D.](#) [WI] - 2/13/2007
[Sen Leahy, Patrick J.](#) [VT] - 1/24/2007
[Sen Levin, Carl](#) [MI] - 1/24/2007
[Sen Lieberman, Joseph I.](#) [CT] - 1/29/2007
[Sen Murkowski, Lisa](#) [AK] - 1/24/2007
[Sen Sanders, Bernard](#) [VT] - 3/12/2007
[Sen Stevens, Ted](#) [AK] - 1/24/2007

COMMITTEE(S):**Committee/Subcommittee: Activity:**

[Senate Homeland Security and Governmental Affairs](#) Referral, In Committee

RELATED BILL DETAILS: (additional related bills may be identified in Status)

Bill:	Relationship:
H.R.662	Identical bill identified by CRS

AMENDMENT(S):

NONE

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Floor Stmt

DANIEL K. INOUE
HAWAII

APPROPRIATIONS
Subcommittee on Defense—Chairman

COMMERCE, SCIENCE AND TRANSPORTATION,
CHAIRMAN

COMMITTEE ON INDIAN AFFAIRS

DEMOCRATIC STEERING AND COORDINATION
COMMITTEE

COMMITTEE ON RULES AND ADMINISTRATION

JOINT COMMITTEE ON PRINTING

United States Senate

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COMMISSION ON WARTIME RELOCATION AND INTERNMENT OF LATIN AMERICANS OF JAPANESE DESCENT ACT

STATEMENT BY SENATOR DANIEL K. INOUE FOR THE RECORD

Mr. PRESIDENT, I rise to speak in support of the Commission on Wartime Relocation and Internment of Latin Americans of Japanese Descent Act.

The story of U.S. citizens taken from their homes on the west coast and confined in camps is a story that was made known after a fact-finding study by a Commission that Congress authorized in 1980. That study was followed by a formal apology by President Reagan and a bill for reparations. Far less known, and indeed, I myself did not initially know, is the story of Latin Americans of Japanese descent taken from their homes in Latin America, stripped of their passports, brought to the U.S., and interned in American camps.

This is a story about the U.S. government's act of reaching its arm across international borders, into a community that did not pose an immediate threat to our nation, in order to use them, devoid of passports or any other proof of citizenship, for hostage exchange with Japan. Between the years 1941 and 1945, our government, with the help of Latin American officials, arbitrarily arrested persons of Japanese descent from streets, homes, and workplaces. Approximately 2,300 undocumented persons were brought to camp sites in the U.S., where they were held under armed watch, and then held in reserve for prisoner exchange. Those used in an exchange were sent to Japan, a foreign country that many had never set foot on since their ancestors' immigration to Latin America.

Mr. President, despite their involuntary arrival, Latin American internees of Japanese descent were considered by the Immigration and Naturalization Service as illegal entrants. By the end of the war, some Japanese Latin Americans had been sent to Japan. Those who were not used in a prisoner exchange were cast out into a new and English-speaking country, and subject to deportation proceedings. Some returned to Latin America. Others remained in the U.S., where their Latin

American country of origin refused their re-entry because they were unable to present a passport.

When I first learned of the wartime experiences of Japanese Latin Americans, it seemed unbelievable, but indeed, it happened. It is a part of our national history, and it is a part of the living histories of the many families whose lives are forever tied to internment camps in our country.

The outline of this story was sketched out in a book published by the Commission on Wartime Relocation and Internment of Civilians formed in 1980. This Commission had set out to learn about Japanese Americans. Towards the close of their investigations, the Commissioners stumbled upon this extraordinary effort by the U.S. government to relocate, intern, and deport Japanese persons formerly living in Latin America. Because this finding surfaced late in its study, the Commission was unable to fully uncover the facts, but found them significant enough to include in its published study, urging a deeper investigation.

I rise today to introduce the Commission on Wartime Relocation and Internment of Latin Americans of Japanese Descent Act, which would establish a fact-finding Commission to extend the study of the 1980 Commission. This Commission's task would be to determine facts surrounding the U.S. government's actions in regards to Japanese Latin Americans subject to a program of relocation, interment, and deportation. I believe that examining this extraordinary program would give finality to, and complete the account of federal actions to detain and intern civilians of Japanese ancestry.

Mr. President, I ask unanimous consent that the text of my statement be printed in the RECORD.

Dear Colleague

DANIEL K. INOUE
HAWAII

APPROPRIATIONS
Subcommittee on Defense—Chairman

COMMERCE, SCIENCE AND TRANSPORTATION,
CHAIRMAN
Subcommittee on Surface Transportation and
Merchant Marine—Chairman

COMMITTEE ON INDIAN AFFAIRS

DEMOCRATIC STEERING AND COORDINATION
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March 6, 2007

Dear Colleague:

On January 24, 2007, I introduced S. 381, the Commission on Wartime Relocation and Internment of Latin Americans of Japanese Descent Act. The story of U.S. citizens taken from their homes on the west coast and confined in camps is a story that was made known after a fact-finding study by a Commission that Congress authorized in 1980 (Public Law 96-317). The study uncovered critical facts that enabled Congress to support, and President Ronald Reagan to sign, the historic Civil Liberties Act of 1988 (Public Law 100-383), providing redress for Japanese Americans. Far less known, and indeed, I myself did not initially know, is the story of Latin Americans of Japanese descent taken from their homes in Latin America, stripped of their passports, brought to the U.S., and interned in American camps.

During its investigations, the 1980 Commission discovered an extraordinary effort by the United States government to relocate, intern, and deport Japanese persons living in Latin American countries. Because this finding surfaced late in its study, the Commission was unable to fully review the facts, but found them significant enough to include in the appendix of its published Report to Congress. The Commission found evidence that during World War II, the United States government worked with Latin American governments to take into custody and intern approximately 2,300 Latin American civilians of Japanese descent. Men, women, and children were uprooted from their homes in Latin America, stripped of their passports, and held in internment camps in the United States. Many civilians were then deported to Japan in exchange for American prisoners of war. Despite their personal tragedies, Japanese Latin Americans were not included under the Civil Liberties Act of 1988, because this program appears to have been executed outside of Executive Order 9066.

A wealth of documents housed in the National Archives evidence this extraordinary program of interning Japanese Latin Americans, and using them for purposes of prisoner exchange. I have attached to this letter an example of documents that evidence bilateral agreements, enabling this program between the United States government and the governments of Brazil, Panama, and Peru.

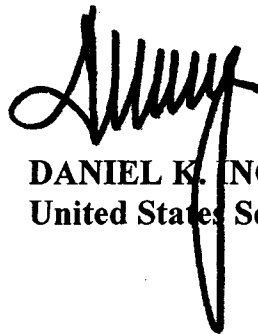
March 6, 2007

Page 2

Today, I seek your support and co-sponsorship of the Commission on Wartime Relocation and Internment of Latin Americans of Japanese Descent Act, which would establish a fact-finding Commission to extend the study of the 1980 Commission. This study proposes to determine facts surrounding the relocation, internment, and deportation of Latin Americans of Japanese descent. I believe that examining the extraordinary program of interning citizens from Latin America in the United States would give finality to and complete the account of federal actions to detain and intern civilians of Japanese ancestry. I hope that you will consider becoming an original co-sponsor of this Act.

For additional information, or to co-sponsor this important legislation, please contact my staff, Ms. Van Luong, at 4-3934.

Aloha,



DANIEL K. INOUE
United States Senator

DKI:vl
Enclosure

DECLASSIFIED
Authority: ND 70140
E.O. 13526, NARA Date: 12-9-01

103-42, March 11, 1947

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14774

Major Branch is exercising the function of secretary due to the absence of [Name].

T. L. Ridge
T. L. RIDGE
1st. Lieut., U.S.N.C.
Asst. Naval Attaché

Forwarded:

W. L. Kilson
W. L. Kilson,
by direction.

original via air.
Courier via sea.



April 9, 1942



RA - Mr. [unclear]
PA/LD - Mr. Duggan

MEASURES WHICH PERU MIGHT TAKE TO IMPROVE ITS COOPERATION WITH THE UNITED STATES

With reference to the measures of cooperation which this Government is prepared to extend to Peru, the following are points of assistance which Peru might make in return:

1. Settlement of foreign debts owned in the United States. No serious attempt has been made to make any payments on the debt owed to American nationals. While it is asserted that the financial position of Peru would not allow any such payments, it is, at the same time, true that regular payments are made on the sterling debts. The American loans were, for the most part, put to productive use and the Peruvian people are still enjoying the benefits therefrom. It would seem that the United States should receive first consideration in any debt settlement.

2. There are several claims outstanding on behalf of American citizens some of which are old. No interest has ever been shown by the Peruvian Government in doing anything about these claims. On the contrary, the Government

711.23/66

JUN 9 1942

PS/AMT

paid off Japanese claims recently with amazing rapidity and almost no complaint about the sums involved. Another example of chary treatment of United States interests was the settlement with United Aircraft after a long argument and at a fraction of the original claim. Caproni interests were paid off in full and expeditiously.

3. Economic controls. To-date the control of Axis funds has been very slipshod. The same has been true on other economic measures against the Axis. Mr. Dasso asserts that he has a good control measure prepared. If so, that should relieve that situation.

4. Subversive activities. While Peruvian cooperation in this respect has been better than in some other countries, it still leaves a good deal to be desired. The Government has been most unwilling to cooperate in the expulsion of dangerous Axis non-officials and while it apparently has finally agreed to expel some, there will be a good many who will be left at liberty.

Censorship has been most inadequate. Some months ago the definitely pro-American postal censor was removed and he was replaced by a friend of a Foreign Office official who has strong Nazi sympathies. Under the tutelage of this individual censorship operates principally in favor of the Axis. Much the same type of lax censorship exists with relation to telephone and telegraph

services

DECLASSIFIED

EO 11652, Sec. 5101 and 5102 of ITI

Authority

By

DATE

11/17/2002

services. The same type of censorship prevails with regard to propaganda where the control is mildly unsatisfactory.

One serious leak which may be irremediable is through the Falange. A strong conservative Catholic bloc is very friendly with the Franco partisans, and there seems to be no doubt that this channel is being used by the Axis not only for espionage purposes but also for propaganda. The difficulty here is that Franco sympathisers are found in the most important positions in the government. Their elimination would require a rather drastic check-up.

The most serious situation concerns the Japanese. There are perhaps 30,000 of them in Peru well-placed and concentrated. Perhaps 5 to 10,000 of them are under military discipline and are armed. The Peruvian Government is seriously concerned over this situation and Peruvians in general bear no love for the Japanese, but so far as I know action has never passed the querulous stage. It seems to me that above all else some very definite assurances should be obtained that drastic and restrictive measures will be taken in the immediate future to control the very dangerous potentialities of this concentration.

5. Military

5. Military cooperation. The Peruvian Government has expressed so far willingness to cooperate in the defense of its coast within the limits of its ability. A few reports are seen around here about the effectiveness of this control, but there are reports which indicate that supervision, particularly in the Talara oil fields area, leaves a good deal to be desired.

6. One of the most dangerous situations in Peru exists in the Foreign Office where a definitely pro-Axis hierarchy has itself well entrenched. The Foreign Minister himself is not above suspicion, but regardless of his real sentiments, his dilatory tactics have played into the hands of the Axis. Report after report from Lima mentions the slowing down of cooperation on the part of Peru due to the quibbling and heel-dragging of Foreign Office officials. This condition is in general to be more coincidence or bureaucratic inefficiency. Mr. Norweb himself has stated that he never knows what the Foreign Minister's last word will be.


RANNEY EJB

July 9, 1940

~~RESTRICTED CONFIDENTIAL~~
RESTRICTAMENTE CONFIDENCIAL

File

WHEREAS: At the eighth International Conference of American States held at Lima in December 1938, the Governments of the American States reaffirmed in the Declaration of Lima their continental solidarity, and their purpose to collaborate in the maintenance of the principles upon which this solidarity is based, and to defend their absolute sovereignty against all foreign intervention or activity;

WHEREAS: The Second Meeting of Ministers of Foreign Affairs of the American Republics, which was held at Habana in July 1940, in accordance with agreements approved at previous Inter-American Conferences, including the Declaration of Lima, adopted a Resolution known as Resolution XIV, which declares:

711.23/67B

"That any attempt on the part of a non-American State against the integrity or inviolability of the territory, the sovereignty or the political independence of an American State shall be considered as an act of aggression against the States which sign this declaration.

"In case acts of aggression are committed or should there be reason to believe that an act of aggression is being prepared by a non-American nation against the integrity or inviolability of the territory, the sovereignty or the political independence of an American nation, the nations signatory to the present declaration will consult among themselves in order to agree upon the measures it may be advisable to take.

"All the signatory nations, or two or more of them, according to circumstances, shall proceed to negotiate the necessary complementary agreements so as to organize cooperation for defense and the assistance that they shall lend each other in the event of aggressions such as those referred to in this declaration.";

PS/LIC

WHEREAS: The United States of America and the Republic of Peru, reaffirming their faith in the foregoing principles, recognize the necessity of reaching an agreement, regarding cooperative measures for Hemisphere Defense in their respective territories and territorial waters agree upon the following:

Continental File

ARTICLE I

The Government of the United States of America and the Government of the Republic of Peru agree that either country may undertake, in accordance with such plans as may be agreed upon between their appropriate military and naval authorities, operations on or over the lands and in or over the territorial waters of the other country for the purpose of Hemisphere defense, and to that end may do with the cooperation of the other Government any and all things necessary to carry out and to maintain such operations.

They furthermore agree that if for purposes of Hemisphere defense either Government should request the cooperation of the other Government for defense against non-American aggression, the Government whose assistance has been requested will come to the aid of the other Government in every practicable way.

ARTICLE II

Any defense installations which may be made by either Government under Article I shall be for the joint use of the contracting parties on a fully cooperative basis.

ARTICLE III

Articles of every description imported into the United States of America or the Republic of Peru for use for the purposes described under Article I will not be subject to the payment of customs duties or any other fees or charges.

ARTICLE IV

The Government establishing or constructing any defense installations under this Agreement shall bear the cost of any indemnification or damage occasioned by the establishment or construction of such defense installations.

ARTICLE V

A Commission composed of Military, Naval and Air representatives of the two Governments will meet in Lima as soon as practicable, for the purpose of making Combined Plans for military cooperation.

ARTICLE VI

A permanent commission composed of Military, Naval and Air representatives of the two Governments will be organized in Lima for the purpose of collaboration in the planning and execution of such operations as may be necessary to make effective the Combined Plans agreed upon. The United States representatives of this Commission may be the Chiefs of the Military, Naval or Air Missions serving in Peru, or special representatives designated for this purpose. This Commission will be assisted by the personnel composing Military, Naval or Air missions serving in Peru without prejudice to existing contracts.

ARTICLE VII

This Agreement, which shall be in force from the day of signature, shall continue in effect for the period of the present emergency and may continue thereafter, if, in the opinion of the two Governments, there still exists danger of aggression by a non-American power against an American power.

ARTICLE VIII

The two Governments will maintain this Agreement confidential until such time as they agree that it shall be made public.

IN WITNESS WHEREOF, the undersigned, duly authorized for the purpose, have signed and sealed this Agreement in duplicate, in the English and Spanish languages, at Washington,

CROSS-REFERENCE FILE

NOTE

SUBJECT Speech delivered by Haya de la Torre:

Transmits a translation of -, head of the Apra Party
in Peru, to a secret session of the Directors of
the Party in Lima on July 22, 1942.

711.23/68

For the original paper from which reference is taken

See letter

Dated Sept. 20, 1942 From Justice Dept. (Room 2077)

File No. 600.80223/107

WAR DEPARTMENT
SERVICES OF SUPPLY
OFFICE OF THE PROVOST MARSHAL GENERAL DEPARTMENT OF STATE
WASHINGTON
November 26, 1942

RECEIVED
DEPARTMENT OF STATE
1942 NOV 27 4 51 PM

DIVISION OF
COMMUNICATIONS
AND RECORDS
DIVISION
NOV 30 1942

Special Division,
Department of State,
Washington, D. C.

Dear Sirs:

The Provost Marshal General has directed me to reply farther to your communication dated October 13, 1942, SD 740.00115, Pacific War/1004, inclosing a copy of memorandum No. 438 dated October 1, 1942, from the Spanish Embassy concerning a protest made by the Japanese Government about treatment reputedly received by Japanese Nationals apprehended in the Republic of Panama and transferred to the United States.

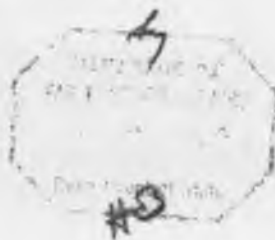
Attached hereto for your information is a copy of an indorsement dated November 18, 1942, by the Commanding General, Caribbean Defense Command, Canal Zone, concerning the matters contained in the memorandum of the Spanish Embassy.

Yours very truly,

B. M. Bryan

B. M. Bryan,
Colonel, F. A.,
Director, Aliens Division.

Incl. ✓
Cy. Ind., 11-18-42



FEB 26 1943

740.00115 PACIFIC WAR/1150

P6/VFZ



BASING: Ltr fr WD Office of the Provost Marshal General, Washn., October 16, 1942, subject: Treatment of Japanese Nationals Transferred to the United States.

AG 383.7-1

1st Ind.

HEADQUARTERS PANAMA CANAL DEPARTMENT, Quarry Heights, C. Z., 18 November 1942.
TO: Provost Marshal General, Aliens Division, War Department, Washington, D. C.
THRU: Commanding General, Caribbean Defense Command, Quarry Heights, C. Z.

1. The following information is submitted regarding the treatment received by Japanese Nationals from the Republic of Panama during the time they were in the custody of the United States Government:

On December 8, 1941, Japanese Nationals were placed in the Canal Zone Internment Camp which was located in the Quarantine Area of Balboa, Canal Zone. The compound in which the internees were detained was inclosed by a wire fence some eight (8) feet in height and was topped by an eighteen (18) inch barbed wire apron. The internees were quartered in the standard United States Army pyramidal type tent which was provided with a wooden flooring. Army Engineers constructed the section of flooring for the tents. These Engineers performed the greatest part of the work with the Japanese assisting by carrying lumber and other materials used in the construction. The work performed by the Japanese was not compulsory and was done in a cheerful and cooperative manner.

At no time was any sort of punishment meted out to the Japanese Nationals as no occasion arose to warrant any disciplinary action.

The sanitary conditions were subject to rigid daily inspection by the Camp Commander, the Department Provost Marshal, the Department Health Officer, and the Department Surgeon.

Latrine facilities were provided of the standard Army type pit latrines. At the time that Japanese internees were placed in the Camp, pit latrines and temporary shower bath facilities for males were available. The latter consisted of duck board platforms, overhead shower heads, all inclosed by a latrine screen. By December 16, 1941, temporary wooden buildings with sewerage facilities were provided for both latrines and showers.

Every care was taken to prevent spread of disease and inconveniences of the internees and there were no cases of sickness resulting from unsanitary conditions.

In the Japanese compound there was set up a standard United

BASIC: Ltr fr WD Office of the Provost Marshal General, Washn., October 16, 1942, subject: Treatment of Japanese Nationals Transferred to the United States.

AG 383.7-1

1st Ind. (Cont'd)

When internees were admitted to the internment camp they were each given a physical examination comparable to that given to applicants for enlistment in the United States Army. From the first day the camp was in operation there was a daily sick call held for each nationality so that any person could attend merely by coming to the Office of the Camp Surgeon at the specified hours. No permanent record was kept of the sick call.

From the records in this office and from interviews with officers in charge of the Canal Zone Internment Camp it can definitely be stated that there were no "serious deed" as alleged by the Japanese Imperial Government, and that treatment accorded their nationals during their period of internment in the Canal Zone Internment Camp was strictly according to the Rules of Land Warfare, and the Geneva Convention of July 27, 1929, relative to the treatment of prisoners of war and civilian internees.

2. In conclusion it has definitely been determined that all enemy aliens interned at the Canal Zone Internment Camp were treated with great care and kindness, and at no time was any suffering or hardship endured by any internee.

For the Commanding General:

/s/ HUGH J. DEENEY,
Lieut. Colonel, A.G.D.,
Asst. Adjutant General.

February 17, 1943

MEMORANDUM

The Department of State refers to memorandum no. 420 dated October 1, 1942, from the Spanish Embassy in charge of Japanese interests in the continental United States, and to the Department's acknowledgment of October 12, 1942, transmitting a protest made by the Japanese Government regarding treatment alleged to have been received by Japanese nationals apprehended in the Republic of Panama and transferred to the United States.

The Embassy is informed that this matter has been investigated and in substance the following facts have been obtained:

On December 8, 1941, Japanese nationals were placed in the Canal Zone Internment Camp which was located in the Quarantine Area of Balboa, Canal Zone. The compound in which the internees were detained was enclosed by a wire fence approximately eight feet in height and was topped by an eighteen inch barbed wire apron. The internees were

740.00115 PACIFIC WAR/1150

PS/DLB

were quartered in the standard United States Army pyramidal type tent which was provided with a wooden flooring. Army engineers constructed the section of flooring for the tents. These engineers performed the greatest part of the work. The Japanese, however, were of assistance in carrying lumber and other materials which were used in the construction. The work performed by the Japanese was not compulsory and was done in a cheerful and cooperative manner. At no time was any sort of punishment noted out to the Japanese nationals since no occasion arose to warrant any disciplinary action.

The sanitary conditions were subject to rigid daily inspections by the Camp Commander, the Department Provost Marshal General, the Department of Health Officer, and the Department Surgeon.

Latrines facilities were provided of the standard Army type pit latrines. At the time the Japanese internees were placed in the Camp, pit latrines and temporary shower bath facilities for males were available. The latter consisted of duck board platforms, overhead shower heads, all

of which

of which were enclosed by a latrine screen. On or before December 16, 1941 temporary wooden buildings with sewerage facilities were provided for both latrines and showers.

Since every care was taken to prevent the spread of disease and the inconveniences of the internees, there were no cases of sickness resulting from unsanitary conditions.

In the Japanese compound there was set up a standard United States Army field kitchen which was operated by personnel from the United States Army under the rigid supervision of an officer of the Army. So far as sanitary conditions were concerned the field kitchen conformed to the standards of the United States Army. After the mess was completely organized and in operation, the Army cooks were displaced by Japanese nationals who had volunteered for this work. This action was taken in order that food, which was prepared under the supervision of an Army cook, would be prepared so far as practicable in accordance with Japanese tastes and standards.

The

The investigation has further revealed that the responsibility for the property of enemy aliens in the Republic of Panama was solely a function of the Custodian of Enemy Alien Property for the Republic of Panama who is reported to have performed his duties in a very satisfactory manner. Funds that were confiscated by the authorities of the United States Army from the Japanese were carefully handled. As each internee was processed, his monies were taken from him and placed in an envelope bearing his name, nationality, serial number and the amount and kind of monies taken. From these envelopes separate accounts were set up for each individual and the total amount deposited to the credit of the Canal Zone Internment Camp Fund in the Chase National Bank, Balboa Branch, Balboa, Canal Zone. Later, upon the transfer of the Japanese nationals to the United States, these funds were transferred on February 25, 1945 by the military Custodian to the Custodian of Enemy Alien Property for the Republic of Panama.

With regard to the Japanese internee named "Alejandro" concerning whom it is stated in the protest from the Japanese

Government as set forth in the Legation's memorandum under reference that "neither the American nor Panamanian authorities gave him medical attention until the second of May when he was placed in a hospital and where he died the same day" the investigation has disclosed that one Alejandro Ouchi, ISM-SP(J)-822-01, was interned at the Camp. He, however, departed for the United States on April 2, 1942. Prior to the departure of the Japanese nationals for the United States the Camp Surgeon submitted a report to the Camp Commander outlining all serious cases of illnesses. In this report there is no record of the sickness of any person named "Alejandro".

Each internee, when admitted to the Internment Camp, was given a physical examination comparable to that given to an applicant for enlistment in the United States Army. From the first day the camp was in operation there was a daily sick call held for each nationality. Any person could attend the sick call by reporting to the Office of the Camp Surgeon at the specified hours.

A thorough investigation has revealed that there were no "serious deeds" as alleged by the Japanese

Government and that the treatment accorded Japanese nationals during the period of their internment in the Canal Zone Internment Camp was strictly in accordance with the provisions of the Geneva Protocol of War Convention of July 27, 1929.

All Japanese nationals interned at the Canal Zone Internment Camp, the Embassy may be assured, were treated with proper regard for the obligations of this Government and with due consideration and at no time did any of them endure any suffering or hardship.

Department of State,

Washington, February 17, 1943

740.00115 Pacific War/2180

OR
FEB 2 1943PA
FEB 11 1943AM
FEB 18 1943PM

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JLB

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REFERENCE CARD

PANAMA, GENERAL

Internment of enemy aliens in Panama, State, from
Panama. 1/11/42.

GOI-3983

8
Dec 21 1941
- 12

10355

Panamá, January 14, 1942.

AIR MAIL

No. 503.

CONFIDENTIAL

SUBJECT: Internment of Enemy Aliens in Panamá.

*1. Mr. ...
2. Mr. ...
3. Mr. ...
4. Mr. ...
5. Mr. ...
6. Mr. ...*

940.00115 Rev 178

The Honorable
The Secretary of State,
Washington.

Sir:

I have the honor to refer to correspondence exchanged with the Department in reference to the understanding reached with the Minister for Foreign Affairs regarding the internment of enemy aliens in Panamá. As mentioned in my strictly confidential despatch No. 300, of October 20, 1941, it appeared possible that in the event of war the situation as regards internees would develop in such a way that the Panamanian authorities would abandon their desire to have these internees maintained on Panamanian territory, and would prefer to have them sent to the United States, as Panamanian internees, as was done during the last war. I am glad to report that this has in fact turned out to be the case. Following recent conversations with General

ANDREWS,

DECLASSIFIED
Authority: *...*
By: *...* NARA Date: *...*

CONFIDENTIAL
10306

ADDRESS, I suggested to the Foreign Minister the desirability of reconsidering the question of keeping interned enemy aliens in Panama, with the consequent necessity of construction of an internment camp, difficulties of guarding and feeding the internees, giving them medical care, etc. I stated that while we were fully prepared to go ahead on the lines of our agreement with Panama to construct at our cost this concentration camp and cover all expenses in connection with the internment of these enemy aliens, nevertheless I felt it desirable to raise the question of reconsidering the entire matter, with the suggestion that these enemy aliens might, if the Government of Panama so desired, be sent to the United States and maintained there by the United States as Panamanian internees, as was done during the last war.

Yesterday Acting Foreign Minister Goytia informed me that after discussion of this matter with the President and the Cabinet he was authorized to inform me that the Panamanian Government had reconsidered the matter and now desired to abandon the project of interning these enemy aliens in Panama, agreeing instead that they should be transported to the United States and interned there as Panamanian internees.

I have informed the Commanding General of the foregoing and steps have been taken to halt the construction of the proposed internment camp.

I suggest that the Department request the War Department to issue the necessary authority to General Andrews for transportation of those Panamanian internees to the United States. It will not be possible to begin the transportation of these internees for some time yet, since the United States Army Intelligence Officers and the Panamanian National Police must still review the great majority of the records of the interned aliens in order to determine those who should be placed at liberty and those concerning whom there exists evidence of dangerous activities warranting their internment for the duration of the war.

Respectfully yours,

Edwin C. Wilson.

ECW:ebp

DECLASSIFIED
Authority: *MPD 100112*
By: *R.T.* NARA Date: *12-7-00*

*Ans
2/14*

~~Timeline~~
Timeline
CPA - State
that

- 8/1873 -1st contact between Japan & Peru when Peruvian vessel (Maria Luz) sailing from Macao to Callao with 230 Chinese workers sought refuge from typhoon in Yokohama. Yokohama, honoring Japan's treaty with China & determining the Maria Luz was a slave ship, released the Chinese & the boat. Peruvians demanded indemnity but lost when case was submitted to Czar of Russia in 1875. During this period, the first Japan-Peru treaty was passed.
- 4/3/1899 -1st Japanese ship to Callao with 790 contract sugar workers from Nagata, Yamaguchi, Hiroshima & more than 1/3 from Okinawa. High incidence of illness and death as well as anti-Japanese sentiment and acts of violence.
- By 1923 -Contract labor abolished between Japan and Peru. ~20,000 Japanese were settled in Peru.
- 1930s -Economic depression in Japan & restrictive immigration legislation in other countries directed emigration to Peru, but inhibited by prejudice and mounting anti-Japanese legislation in Peru. More Japanese leave Peru than arrive.
- 7/7/37 -Japan invades China.
Increased anti-Japanese press campaign rooted in racism, economic competition and fear of military threat.
- 9/1/39 -Germany invades Poland.
Two days later, Britain and France declare war against Germany and World War II begins.
- 9/39 -creation of the Special Division within the Department of State to preserve the welfare of American citizens within the war zones, including exchange of civilians between the US and Japan should the US enter the war.
- By 1940 -About 26,000 persons of Japanese ancestry in Peru, including 17,600 Issei who represent 28.9% of the foreign population of Peru.

-US Government maintains lists of potentially dangerous citizens and "enemy aliens" of Japanese, Italian and German ancestry in the US and Latin America
- 5/13/40 -Major anti-Japanese riot in Lima and Callao, Peru.
- 6/40 -FBI authorized with responsibility for nonmilitary intelligence in Western Hemisphere and FBI agents sent to Latin America.

7/41-46

-Proclaimed Lists of Certain Blocked Nationals issued, listing Axis citizens and businesses with which the US could no longer deal.

1941
10/41

- Justice, State and War Departments begin meeting to plan internment strategies within the borders of the United States and in Latin America.

-US initiates an agreement with the Panamanian government for wartime internment of "enemy aliens" in Panama should the US enter into WWII, with the US assuming all expenses and responsibility.

12/7/41

-US-Panamanian agreement implemented after Japan attacks Pearl Harbor. All Japanese residents in Panama are arrested and on the following day turned over to US authorities for internment in the Panama Canal Zone and later in the United States.

12/7/41-4/45

-2264 persons of Japanese ancestry from 13 Latin American countries apprehended, deported and interned in US concentration camps to be used as hostages in exchange for American citizens held in the Far East war zone. Of these, about 1800 (or 80%) were JPs. Some Japanese Latin Americans (JLA) are interned in the Panama Canal Zone and put to hard labor. All JLAs were processed into the United States (through California or New Orleans, LA) and declared "illegal aliens."

[Years later a US consular official in Peru, John K. Emmerson, admits that the forcible detention of the JPs was a violation of human rights and not justified by threat to national security.]

12/9/41

-US government begins to blacklist Japanese individuals and businesses in Latin America to break economic influence of Japanese.

12/15/41

-JPs begin to be arrested. 15 JP and 5 others are taken by airplane to the Panama Canal Zone for internment in US military camp.

1/42

-Conference of Pan American ministers of foreign affairs met and created Emergency Advisory Committee for Political Defense (with reps from US, Argentina, Brazil, Chile, Mexico, Uruguay and Venezuela), which adopted US recommendation that LA should break diplomatic relations with Axis and intern Axis nationals, restrict naturalization & revoke citizenship of Axis supporters. 19 countries deported over 6000 "dangerous" residents and citizens to the US for internment.

4/4/42

-First ship SS Etolin leaves Callao, Peru with a total of 978 enemy alien prisoners (141 were JP, 77 other JLA). It arrives in San Francisco on 4/20/42.

5/42-45

-“Enemy alien” prisoner exchanges begin(at least 5 with Germany and 2 with Japan).

- 6/18/42 -First of two Japanese prisoner exchanges on the Gripsholm ship. 1482 persons of Japanese ancestry exchanged (~35 JP + ~93 other JLAs + ~520 other Js + 417 JLAs picked up in Brazil). Exchange in Lourenco Marques in Africa (Portuguese port).
- 9/2/43 -Gripsholm ship departs with second prisoner exchange of 1340 persons of Japanese ancestry (484 JP, 253 JLA, 603 other J). Exchange takes place in Mormugao, India (Portuguese port).
- [Two prisoner exchanges of 2822+ persons of Japanese ancestry were achieved during the war. Of these, about 865 JLAs (+ 417 JLAs picked up in Brazil) were sent on the Gripsholm ships in 1942 and in 1943. This left about 1400 JLAs who continued to be interned in the United States until end of war.]
- Spring 1944 -Deportations from Peru continue even though US State Dept. realized that there would be no further Axis repatriation until the war was over.
- 7/28/45 -US ratifies United Nations Charter.
- 7/45 -Presidential Proclamation 2655 issued, authorizing the DOJ to deport all “dangerous enemy aliens” in the US.
- 9/2/45 -Japan formally surrenders. WWII ends.
- 9/45 -Presidential Proclamation 2662 issued, authorizing the DOS to deport “enemy aliens” in the US who were brought from Latin America. US government informs remaining 1400 JLAs that they were “illegal aliens” and subject to deportation. Peru refuses to readmit JP even if P citizens or married to citizens. 365 of the JPs decided to fight deportation from the US, many hoping to return to their homes in Peru. J
- 11/45-6/46 -Over 900 JPs are deported to war devastated Japan; many faced starvation conditions and hostile rejection by the Japanese people.
- 1/46 -US federal court rules LA internees were alien enemies who could be legally detained. 513 JLA (90% JP) + 897 Germans + 37 Italians submit to deportation hearings to Axis countries.
- 4/10/46 -Presidential Proclamation 2685 issued, ordering “enemy aliens” to prepare for removal in 30 days.
- spring 1946 -Dept. of State announces that interned Japanese would no longer be classified as “enemy aliens” (cleared by FBI investigation)

- Justice Dept. closes 26 detention facilities for "enemy aliens" & loses court cases to internees.
- US begins releasing internees under "relaxed interment" or "restricted parole". Some were sponsored by JA relatives and were allowed to leave camp. 2/3 were paroled to Seabrook Farms, New Jersey as cheap labor.
- Between 5-10/46: ~100 JP reenter Peru when Peru agrees to accept Peruvian citizens of Japanese ancestry & Japanese related to Peruvian citizens.
- 8/46 -JP begin to be paroled to Seabrook Farms in New Jersey, (totalling 209 JPs).
- By 1/47: 300 JP remain in US.
- 1948 US becomes founding member of Organization of American States (but did not ratify the OAS Charter until 6/15/51 and has not yet ratified the American Convention on Human Rights)
- 2/27/48 -Crystal City Internment Camp officially closes.
- 12/10/48 -US becomes party to Universal Declaration of Human Rights.
- 1953 -US Congress agrees to suspend deportation orders for former JLA internees.
- 8/31/54 -US Congress passes law permitting former JLA internees to apply for permanent residency status in the US.
- 1970 -Edison Uno, former internee and Nisei civil rights activist, calls for US accountability for Japanese American internment, sparking the struggle for redress. Unanimously adopted by Japanese American Citizens League (JACL) National Council.
- 1974 -First legislative plan for redress proposing individual payments to all persons who were interned is initiated by Seattle Evacuation Redress Committee under aegis of Seattle JACL Chapter. Aleuts and Japanese Latin Americans are included in the Seattle plan.
- 1981 -Commission on Wartime Relocation and Internment of Civilians (CWRIC) holds hearings in nine major cities across the country, recording testimonies from over 750 witnesses, including several former JP internees. Recommendations issued to Congress 6/16/83.
- 1983 -Seiichi Higashide wrote Namida No Adiosu: Nikkei Peru Imin Beikoku Kyosei Shuyo No Ki). The second Japanese edition was published in 1995. The English translation, Adios To Tears: The Memoirs of a Japanese-Peruvian Internee in US Concentration Camps, was published in 1993.

7/84

-First Reunion of the JP internees and their families (from the US, Japan and Peru), with redress being one of the topics of discussion.

8/10/88

-Civil Liberties Act of 1988 signed, mandating apology and payment of \$20,00 to an estimated 60,000 JA survivors of the WWII internment and establishment of an education fund.

Redress restricted to US citizens and permanent residents of Japanese ancestry at time of internment. JLAs are not specifically excluded from legislation.

1989

-The Department Justice adopts rules for enforcement of the CLA, whereby Japanese Latin American internees are denied redress eligibility because they were "illegal aliens" and not US citizens or permanent residents at time of internment. However, children born in the US to JLA parents during internment [from 12/7/41 to 6/30/46] and those JLAs who obtained the status of retroactive permanent resident alien extending retroactively to the internment period meet the threshold statutory requirement and are eligible for redress.

10/9/90

-Eligible former internees of Japanese ancestry begin receiving redress under the CLA of 1988.

7/91

-Japanese Peruvian Oral History Project (JPOHP) is formed in the San Francisco/Bay Area to preserve JP family histories, educate the public (in the US and internationally) about the JLA wartime experience and provide redress information and referrals to former JLA internees and their families.

2/93 & 3/93

-Major speeches and distribution of information occur at "Day of Remembrance" events held by the JA community in San Francisco, San Jose and Los Angeles. This marks the first time the JA community incorporated the existence of the Department of Justice internment camps and the JLA wartime experience into the annual commemoration of the internment of JAs. This also marks the beginning of the JP experience being recognized and accepted as a part of JA history.

7/93

-JPs participate on educational panels at the 7th Conference of the Pan American Nikkei Association (PANA) in Vancouver, British Columbia. (PANA is a network of Nikkei from North America, South America and Japan.) This marks the first time the JLA internment and redress experience is discussed in an international forum.

8/93 & 9/94

-JP representatives join redress delegations to Washington, D.C., led by the National Coalition for Redress/Reparations (NCRR) and Japanese American Citizens League (JACL) to discuss concerns with over 2200 denials for redress for JAs and JLAs. These mark the first time JPs meet formally with Department of Justice officials and Congressmen regarding

JLA redress.

- 2/94 & 8/94 -Distribution of information packets, "Unfinished Business - Japanese Latin American Internment: A Case for Redress for Violations of Human Rights During WWII," at 1994 Session of the United Nations Commission on Human Rights and Subcommittee on Human Rights, respectively. This marks the first time the JLA issue is brought to the attention an international governmental body and non-governmental organizations. Relations begin to be developed with other groups who have unresolved issues from the WWII period.
- 1994 & 1996 -Resolutions supporting all efforts to achieve redress for JLA internees are passed at the JAACL National Convention.
- 6/95 -Proposed technical amendment to the CLA submitted to Office of Redress Administration/Department of Justice to expand redress to JA and JLA persons who were born in camp but after the cut-off date of June 30, 1946. The cut-off date should be changed to February 27, 1948, the official closing date for Crystal City Internment Camp. No action was ever taken by the government on this amendment. Later, the government refused to grant redress under the Mochizuki settlement to 2 US citizens born in camp to JP parents.
- 7/96 -Campaign for Justice: Redress Now For Japanese Latin Americans! (CFJ) is founded by the JPOHP, NCCR, JAACL, and American Civil Liberties Union Foundation of Southern California (ACLU) to support JLA redress and education efforts.
- 8/27/96 -Filing of Complaint in class action civil rights lawsuit on behalf of JLA internees, Carmen Mochizuki v. USA, in US District Court (Central District), seeking inclusion for redress in the Civil Liberties Act of 1988.
- 3/97 -The first CFJ redress delegation to Washington, D.C. in 1997 to deliver over 4000 letters supporting JLA redress to President Clinton and to develop support for JLA redress concerns with Congresspersons.
- 2/98 -26-member Community Delegation to WDC, which included former Japanese Latin American (JLA) internees, family and friends, general members of CFJ, and representatives of member organizations of CFJ.
- 6/12/98 -Announcement of a controversial settlement agreement in the Mochizuki lawsuit, which includes a presidential apology and a one-time per capita compensation payment of \$5,000 to each surviving former JLA internee, so long as monies are available in the CLA fund. Class members have the right to "opt out" of the settlement agreement and are permitted to seek legislation for additional compensation funding. Less than four months later, the US government announces the possibility of insufficient funds remaining for redress payments to JA and JLA

internees. US government refuses to release the status of JLA claims to attorneys for the internees thereby preventing efforts to ensure proper processing of JLA applications.

- 7/19-8/5/98 -Due to inadequate government notification, CFJ organizes an emergency tour to seven cities in Hawaii, Japan, Okinawa and Peru to help locate and notify former JLA internees, to help internees make an informed decision regarding the settlement agreement and to educate the public.
- 8/27/98 -Filing of the Shima v. Reno (USA) lawsuit by one of the original named plaintiffs in the Mochizuki lawsuit who rejected the settlement agreement. This lawsuit seeks equitable redress under constitutional and international law.
- 10/15/98 -Filing of the NCRR & Suzuki v. USA lawsuit, charging government malfeasance for failure to invest the \$1.65 billion redress fund as required under the CLA, resulting in an estimated loss of \$200 million to the fund for compensation and education purposes.
- 12/14/98 -Filing of Yano lawsuit on behalf of a JA born in an internment camp after the 6/30/46 restriction imposed by the CLA and based in international law and citing emotional distress.
- 1/7/99 -Settlement agreement in Mochizuki v. USA lawsuit approved by the court, despite likelihood of insufficient redress funds to compensate all JLAs.
- 2/5/99 -The ORA closes the redress program established under the CLA with \$5 million being expended for educational purposes and \$1.6 billion in compensation being paid (along with an apology letter) to 82,250 persons of Japanese ancestry (\$20,000 payments to 82,030 JAs and 189 JLAs; \$5,000 payments to 145 out of 731 JLAs under the Mochizuki settlement). Due to insufficient funds, only apology letters are sent to those eligible internees who have been processed prior to the termination date. Internees whose applications had not been completely processed were not awarded an apology nor compensation.
- US District Court Judge Letts transfers Shima v. Reno (USA) lawsuit to Court of Federal Claims, ruling that the claims were falsified and refusing to hear oral arguments. Government attorneys characterized Shima's equitable claims as phoney, and argued that his true claim was for the token redress payment alone.
- 2/ ___ ?/99 -Attorneys for internees in Mochizuki lawsuit charge the US government with breach of the settlement agreement by needlessly burdening former internees with confusing and unnecessary requests for information, sending forms in English to Japanese speakers, depriving internees of legal

counsel by denying attorneys of pertinent claimant information, and by refusing to process JLA claims past Feb. 5th and by failing to notify claimants of this "deadline."

2/17/99

-Filing of the Shibayama v. Reno (USA) lawsuit on behalf of three JP brothers who opted out of the Mochizuki settlement, charging the US government with crimes against humanity and continuing violations of US and international law and seeking equitable redress.

4/19-22/99

-CFJ community delegation travels to WDC to urge President Clinton, Congress and Department of Justice to complete the mandate of the CLA.

5/20/99

-Congress passes, but did not authorize, the Emergency Supplemental Appropriations Act, which included the reprogramming of \$4.3 million of DOJ funds to make redress compensation payments to 586 JLAs under the Mochizuki settlement and 79 JAs. Processing of JLA redress claims resumes.

This additional redress funding does not apply to disputed eligibility categories: pending JA cases, 17 late JLA applicants, 11 JLA applicants declared "undeliverable" and thus ineligible, and 17 JLAs who opted out of the Mochizuki settlement.

6/10/99

-Chief Judge Smith of the US Court of Federal Claims in the Mochizuki case concurs that disclosing information about JLA claimants does not violate the Privacy Act, but stopped short of ordering the government to release such information to the internees' attorneys. He urged parties to reach agreement on disputed issues.

8/____/99

-Chief Judge Smith of the US Court of Federal Claims in the Mochizuki case orders the US government to release information on 12 JLAs who filed claims but who were declared ineligible because their whereabouts are now unknown. Attorneys for internees are able to begin searching for the 12 JLAs.

9/16/99

-Days before the end of the fiscal year, Congressional authorization is given to reprogram DOJ funds as provided for under the Emergency Supplemental Appropriations Act. However, redress compensation payments are not immediately made.

10/____/99

-Shibayama v. Reno (USA) lawsuit is transferred to Federal Court of Claims.

10/17-24/99

WDC Trip with Grace and Mariko.

- 11/12/99 -NCRR & Suzuki v. USA lawsuit is dismissed, upholding the government position that plaintiffs suffered no legal injury. Plaintiff Suzuki can reopen this lawsuit if he does not receive his compensation payment under the Mochizuki settlement. Plaintiffs appeal judge's ruling.
- 6/23/00 -Rep. Xavier Becerra (CA-D)introduced the "Wartime Parity and Justice Act of 2000", to provide for redress for Japanese American and Japanese Latin American internees who have not received proper redress as well as to fulfill the educational mandate of the Civil Liberties Act of 1988 with the reestablishment of the education fund. This bill is reintroduced in Congress again in 2001, 2003 and 2005.
- 11/00 -Wartime Violations of Italian American Civil Liberties Act passed.
- 2000? -Filing of Kato, Yano & Ogura v. USA, charging the U.S. with a continuing policy of discrimination, for violating their fundamental civil rights during the War and then later denying them an apology and redress. The court later dismissed the case, ruling that all legal action was barred by the statute of limitations since internees had one year after release from prison camp to file a lawsuit against the U.S. government.
- 2/15/01 -The Ninth Circuit upheld the dismissal of NCRR & Joe Suzuki v. USA, stating that, "[NCRR's] claim is not redressable because the fund has been terminated and its administering board no long exists."
- 5/2/01 -The Ninth Circuit Court of Appeals dismissed the case of Shima v USA in an unpublished decision due to statute of limitations, and upheld the lower court's dismissal of the case. An appeal was not made to the U.S. Supreme Court.
- 7/25/01 -Senator Daniel Inouye (D-HI) introduced the Wartime Parity and Justice Act of 2001 in the Senate.
- 8/3/01 -Wartime Treatment Study Act first introduced in US Congress.
- In 2002 -U.S. Supreme Court refuses to consider appeal of Kato, Yano and Ogura v. USA. Dismissal of lower court stands.

- In 2002 -The Court of Federal Claims in Shibayama v. USA ruled that Japanese Latin Americans are ineligible for redress under the CLA unless they were granted retroactive permanent resident status to the time of their internment. The court also ruled that it did not have jurisdiction to consider their claim for redress equity for civil and human rights violations.
- 6/___/03 -Filing of petition by three Shibayama brothers and the JPOHP with Inter-American Commission on Human Rights (a body of the Organization of American States) on behalf of former Japanese Peruvian internees to hold the US government accountable for the ongoing failure to provide redress for war crimes and crimes against humanity perpetrated, against Japanese Latin Americans by the US government during WWII.
- 3/4/04 -H.Res. 56 passes, supporting the goals of the Japanese, German and Italian American communities in recognizing a National Day of Remembrance to increase public awareness of their WWII experiences.
- 4/8&9/05 -Public testimonial event, "Assembly on Wartime Relocation & Internment of Civilians", held at Hastings Law School in SF, documenting testimony by former German, Italian and Japanese immigrants in the US and from Latin Americans who were classified and interned as "enemy aliens" during WWII as well as testimony by members of communities now being scapegoated as the enemy.
- 5/06 Community delegation delivers Report and dvd of the "Assembly on Wartime Relocation & Internment of Civilians" to members of US Congress and the Inter-American Commission on Human Rights.
- 1/24/07 -Senator Daniel Inouye and Rep. Xavier Becerra introduced the "Commission on Wartime Relocation and Internment of Latin Americans of Japanese Descent Act" in both houses of Congress.

MEMORANDUM

Date: June 11, 2007
Re: Questions and Responses for S. 381, the Commission on Wartime Relocation and Internment of Latin Americans of Japanese Descent Act

Bill Background

S. 381 seeks to establish a commission to expand upon the study conducted by the former Commission on Wartime Relocation and Internment of Civilians established by Congress in 1980 to learn about Japanese Americans interned under Executive Order 9066. Near the end of its study, the 1980 commission discovered the U.S. government's involvement in relocating, interning, and using Latin Americans of Japanese descent for civilian exchange. S. 381 proposes a commission study to finish the work of the earlier commission, and narrows its examination to focus upon Latin Americans of Japanese descent who were omitted from the earlier inquiry. This commission bill will give closure and finality to the understanding of the internment period and the internment of persons of Japanese descent during the Second World War.

Short History

Documents in National Archives reflect that from 1941 to 1948, the U.S. government initiated a program that brought into the U.S. from 13 Latin American countries about 2,264 persons of Japanese ancestry. The JLA internment was in response to the need for persons to trade for U.S. civilians and military personnel, in which Japan had a decided advantage, having in custody of approximately 15,000 repatriable Americans versus the 6,000 repatriable Japanese in U.S. custody¹. Notably, as early as October 1941, the departments of Justice, State, and War began developing JLA deportation and internment strategies with Latin American countries. (Please see memo dated June 5, 2007, History of Internment of Latin Americans of Japanese Descent, for a more detailed history.)

Possible Questions and Responses

1. Government commissions are a waste of money.

Commissions are regularly mandated by Congress to study circumstances and events as a necessary and legitimate tool to aid Congress in exercising its policy making powers. Commissions are a responsible use of public funds, and prevent public waste from enacting into law counterproductive or harmful programs and policies. To name a few, the 9/11 Commission, the Rogers Commission, and the Kerner National Advisory Commission on Civil Disorders have made important studies and recommendations to produce sound policy.

¹ According to a State Department document from Acting Secretary of State Breckinridge Long to the U.S. Ambassador to Peru, R. Henry Norweb, "an eventual deficiency of Japanese to be exchanged may develop." Memorandum from Acting Secretary of State Breckenridge Long to U.S. Ambassador to Peru, R. Henry Norweb, Oct. 22, 1943.

- The Rogers Commission—investigated technical and managerial factors that contributed to the Space Shuttle Challenger disaster; reforms to NASA’s procedures were enacted and successfully prevented the reoccurrence of a similar accident.
- The Kerner National Advisory Commission on Civil Disorders—investigated the causes of the 1967 race riots.
- The 9/11 Commission—provided national security recommendations designed to guard against future attacks.

The JLA Commission Bill limits the life of the commission to about a year and a half, and continues the earlier study authorized by Congress. Congress was aware of the 1980 commission’s incomplete work, as that commission had reported in 1982 that “historical documents concerning the ethnic Japanese in Latin America are, of course, housed in distant archives, and the Commission has not researched that body of material,”² but the commission recognized that “an examination of the extraordinary program of interning aliens from Latin America in the United States completes the account of federal actions to detain and intern civilians...of Japanese ancestry.”³ CBO has provided a cost estimate of about \$1 million.

2. *The JLA internment is more appropriately dealt with as a graduate student’s thesis.*

A commission charged by Congress and selected by Congress in a democratic and bi-partisan procedure legitimizes the commission study in a way that a thesis paper does not. Only Congress has the ability to carry out an extensive inquiry that may require the cooperation of foreign governments. In addition, a commission would have the power to subpoena documents and witness testimony, and hold public hearings. It is appropriate for a public commission, rather than an academic to undertake this study because this is a government action in question. Published scholarly works that already exist include C. Harvey Gardiner, Pawns in a Triangle of Hate: the Peruvian Japanese and the United States⁴, and Michi Weglyn, Years of Infamy: The Untold Story of America’s Concentration Camps⁵.

3. *The JLAs as taking two bites at the apple, seeking both court and legislative remedies.*

Excluded from the Civil Liberties Act of 1988 which provided relief for U.S. citizens and legal permanent residents interned under Executive Order 9066, some JLAs filed lawsuits, most of which were dismissed because courts are ultimately not the right venue for relief. In Mochizuki v. United States, the JLA plaintiff sought relief under the Civil Liberties Act. Chief Judge Loren Smith in his Opinion and Order, stated that the plaintiff’s request for ensuring additional funds for a settlement was “beyond the court’s constitutional power.”⁶ However, the court hopes that the Congress and the President will give due consideration to fully funding the settlement so that all identified class members may be paid the modest amount that will serve as a symbol of

² Appendix I: Latin Americans. Personal Justice Denied Report of the Commission on Wartime Relocation and Internment of Civilians. Page 314.

³ *Ibid.* Page 305.

⁴ Gardiner, Harvey. "Pawns in a Triangle of Hate: the Peruvian Japanese and the United States." International Migration Review 1st ser. 17 (1983): 151-152.

⁵ Michi, Weglyn, and James A. Michener. Years of Infamy: the Untold Story of America's Concentration Camps. Seattle: U. of Washington Press, 1996.

⁶ Mochizuki V. the United States. No. 97-294C. United States Court of Federal Claims. 25 Jan. 1999.

restitution rather than actual monetary damages⁷.” Significantly, it was clearly stated in the plaintiff’s settlement agreement with the government, “Nothing in this agreement shall be deemed to override any subsequent legislative enactment designed to compensate members⁸.”

4. A commission study will lead to reparations.

S. 381 is structured like many other established blue-ribbon commissions charged with making objective investigations and recommendations to Congress. The bill directs that the nine member commission to be appointed by the President of the United States, Speaker of the House of Representatives, and President pro tempore of the Senate. This bipartisan commission will recommend appropriate remedies, if any, and if it recommends that reparations be made, Congress has the power to decide through an open and democratic process as to how it wishes to proceed. Relying upon this 200 year old open and democratic process, Congress should not hesitate to conduct a commission study of the U.S. government’s history as it relates to the internment of Latin Americans of Japanese descent.

⁷ Ibid.

⁸ (Mochizuki v. United States Settlement Agreement, June 10, 1998, paragraph 23.)



Memorandum

January 19, 2006

TO: Honorable Xavier Becerra
Attention: Christine Oh

FROM: Thomas P. Carr
Analyst in American National Government
Government and Finance Division

SUBJECT: Compensation Provisions in Draft Legislation to Create a Congressional Commission

This memorandum responds to your inquiry regarding strategies for maximizing the chances for favorable consideration of legislation proposing to create a congressional commission. The proposed draft bill in question would establish a commission to expand upon the study conducted by the former Commission on Wartime Relocation and Internment of Civilians.¹ The commission's study would focus on Latin Americans of Japanese descent who were relocated, interned, or deported to Axis countries from December 1941 through February 1948.

Specifically, you asked for an analysis of the provisions of section 6 of the proposed legislation, which sets rates of compensation for members and staff of the commission. Compensation language in the draft bill generally mirrors the language of the legislation establishing the Commission on Wartime Relocation and Internment of Civilians of 1980, which itself reflected federal guidelines for compensation² promulgated pursuant to the Federal Advisory Committee Act (FACA).³ This may be considered an appropriate precedent to follow. There are, however, examples of proposals to create commissions similar in purpose to the draft bill, specifying that members of the commission shall serve without compensation.

This memorandum examines the rationale for the specific compensation scheme incorporated in the draft legislation, and analyzes the potential impact this compensation framework, or alternative compensation schemes, might have on increasing the chances for

¹ The Commission on Wartime Relocation and Internment of Civilians was established pursuant to P.L. 96-317, July 31, 1980. The Commission was terminated June 30, 1983 under the terms of the act after submitting its recommendations.

² "Federal Advisory Committee Management," 41 CFR part 102-3.130.

³ 5 U.S.C. Appendix 2 – Federal Advisory Committee Act; Public Law 92-463, 86 Stat. 770.

favorable consideration of the bill, and if adopted, how such compensation provisions would contribute to the ability of the commission to achieve its mandate.

Congressional Advisory Commissions. In establishing a congressional advisory commission, Congress is not strictly bound by the requirements set forth in FACA because that statute applies to presidential advisory committees and other bodies. Such bodies are distinguished from congressional commissions primarily because their reports and recommendations are addressed to the President or other executive branch officials. Congressional commissions, by contrast, deliver their work product to the Congress, often in the form of recommendations for legislative action.⁴ In any case, statutes creating congressional commissions will frequently incorporate explicit statutory language exempting the commission from FACA requirements either in whole or in part.

Exemption from FACA requirements, whether implied or expressed does not, however, signal an abrogation of the standards and principles of commission management which they represent. The enactment of FACA represented Congress's informed judgement regarding best management practices for advisory committees. It is logically consistent that legislators would apply similar guidelines to congressional commissions in order to achieve the maximum degree of efficiency and economy. A brief review of the enactment history of FACA will illuminate this principle.

Legislative History of FACA. Since the earliest Congresses the government has created advisory panels to provide independent advice and recommendations on a variety of subjects.⁵ During the 20th century, these commissions, committees, task forces, or other independent study bodies proliferated. Impetus for the enactment of the Federal Advisory Committees Act came from a growing perception that the efficiency and economy of these numerous bodies left considerable room for improvement.

In the mid 1950's, a study of advisory committees in the executive branch was conducted by the Executive and Legislative Reorganization Subcommittee of the House Committee on Government Operations. This study concluded that the system of advisory committees could be improved by the adoption of uniform management controls. This early study, however, suffered from the fact that it did not make a systematic review of all advisory committees in order to determine whether existing controls were in fact adequate.

Consequently, in 1969, the Special Studies Subcommittee of the House Committee on Government Operations began a comprehensive review of all advisory committees within the federal government. Its goal was to study the guidelines and regulations relating to the creation, administration, and management of advisory committees and to make recommendations for constructive reform. In the years preceding this investigation, advisory bodies created by both the President and Congress had become so pervasive that they were perceived as a virtually independent branch of the government. Yet despite their ubiquity, there was no overall statutory authority setting out policy and management guidelines for such committees at all levels of the federal government.

⁴ Certain hybrid commissions which direct joint recommendations to the President and to Congress, present some ambiguities regarding the application of FACA requirements.

⁵ George Washington is usually credited with initiating the tradition of creating such advisory bodies when he appointed an ad hoc group of commissioners in 1794 to deal with the Whiskey Rebellion.

The existing controls, viewed by the special subcommittee as ineffective, were embodied in two executive branch directives. Executive Order 11007, issued on February 26, 1962, prescribed regulations for the formation and use of advisory committees, but did not provide for overall executive oversight, leaving administrative responsibility for advisory bodies with individual departments and agencies. Nor did it cover committees established by statute, except in cases where the statute specifically directed the President to prescribe regulations. Office of Management and Budget Circular No. A-63 issued March 2, 1964 provided fairly comprehensive guidelines governing the establishment, use, funding, and termination of "interagency committees," but its scope was limited, covering only about one third of the total number of committees involved with the operation of the executive branch.

In its December 11, 1970 report, "The Role and Effectiveness of Federal Advisory Committees," the Special Studies Subcommittee noted that E.O. 11007 and OMB Circular A-63 had never been updated, that presidential advisory committees generally lacked adequate administrative guidelines and management controls, and that existing requirements needed to be strengthened. Among its recommendations was the directive that "The Congress should spell out in public law the philosophy and need for advisory bodies and definitively establish policy and administrative criteria for their use at all levels of government."

This set the stage for the enactment of the Federal Advisory Committee Act in 1972. Pertinent to the subject of this memorandum was the Special Studies Subcommittees specific recommendation that "the Office of Management and Budget together with the Civil Service Commission should study the varying rates of payment per day for consultant members of advisory bodies and establish uniform government rates for comparable services."

On February 17, 1971, Representative John Monagan, former chairman of the Special Studies Subcommittee, introduced into the 92nd Congress H.R. 4338, the Federal Advisory Committee Standards Act. The bill was reported by the House Committee on Government operations on April 25, 1972 (H.Rpt. 92-1017), and passed the House May 9, 1972. At the time of its introduction, the Office of Management and Budget opposed the bill, on the theory that improved advisory committee management could be achieved without congressional action.

A related Senate bill, S. 3529, was reported by the Senate Government Operations Committee on September 7, 1972. Earlier, on June 7, 1972, President Richard Nixon issued Executive Order 11671 which established additional administrative controls over federal advisory committees, in an apparent effort to obviate the need for congressional action. The Senate Government Operations Committee stated, however, that the executive order was not comprehensive and that legislation was still needed. The Senate passed H.R. 4383 on September 12, 1972 after substituting the language of the Senate bill. Final action on the bill occurred when the Senate adopted the conference report on September 19, and the House followed suit on September 20, 1972. The President signed the bill into law on October 6, 1972 (P.L.92-463; 86 Stat. 770).

Uniform Pay Rates Under FACA. Section 7 of FACA created within the Office of Management and Budget a Committee Management Secretariat charged with overseeing the operation of all advisory committees and prescribing "administrative guidelines and

management controls applicable to advisory committees.”⁶ Section 7 (d) specifically addressed the question of compensation:

Sec. 7 (d) (1) The Director, after study and consultation with the Civil Service Commission, shall establish guidelines with respect to uniform fair rates of pay for comparable services of members, staffs and consultants of advisory committees in a manner which gives appropriate recognition to the responsibilities and qualifications required and other relevant factors. Such regulations shall provide that –

(A) no member of any advisory committee or the staff of any advisory committee shall receive compensation at a rate in excess of the rate specified for GS-18 of the General Schedule under section 5332 of title 5, united States Code; and

(B) such members, while engaged in the performance of their duties away from their homes or regular places of business, may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons employed intermittently in the Government service.

(2) Nothing in this subsection shall prevent —

(A) an individual who (without regard to his service with an advisory committee is a full-time employee of the United States, or

(B) an individual who immediately before his service with an advisory committee was such an employee, from receiving compensation at the rate at which he otherwise would be compensated (or was compensated as a full-time employee of the United States.

In accordance with these responsibilities, OMB promulgated a joint memorandum with the Department of Justice directed to all agency department heads setting forth detailed standards as to how the act was to be implemented (38 FR 2306, Jan. 23, 1973). These directives became the basis for promulgation of the formal regulations on advisory committee compensation that are codified at 41 CFR 102-3.130 under the heading “What policies apply to the appointment, and compensation or reimbursement of advisory committee members, staff, and experts and consultants?” (see attachment).

Applicability to Congressional Advisory Commissions. Since the time these regulations were promulgated, they have been controlling for advisory commissions that fall within the definitions of FACA, and have provided persuasive guidance for congressional advisory commissions as well. As noted at the beginning of this memorandum, congressional commissions created by statute are not necessarily bound by all requirements of FACA, but in practice, these guidelines are generally followed when new commissions are established. In the context of drafting compensation language for new commissions, the rationale for this parallelism is based on certain logical premises.

First, Congress itself identified the inadequacies in commission management guidelines, and the current regulations are a product of legislative remedies developed by Congress. Any deviation from typical standards for compensation would probably need to be accompanied by persuasive justification that the proposed alternative payment framework was appropriate and necessary to the task at hand. Any increase in normal compensation levels would likely be closely scrutinized during a period of fiscal restraint.

Proposed Compensation Scheme. Section 6 of the draft bill, “The Personnel and Administrative Provisions,” sets compensation limits for members and staff of the

⁶ E.O. 12024 issued on December 1, 1977, transferred authority for management of Federal Advisory Committees from OMB to the General Services Administration.

commission defined in terms of pay rates prescribed in the Executive Schedule.⁷ Members of the commission who are not officers or employees of the federal government are to be compensated at a rate “equal to the daily equivalent of the annual rate of basic pay prescribed for level IV of the Executive Schedule.” Staff compensation may be fixed by the Chair of the commission, but these pay rates may not exceed “the rate payable for level V of the Executive Schedule.” In both cases, appointees who are officers or employees of the federal government are to serve without additional compensation.

The level IV compensation for members of the commission (\$140,300 in 2005), mirrors the language of the Federal Advisory Committee Management regulations in Title 41 of the Code of Federal Regulations (41 CFR 102-3.130). Staff compensation in the proposed legislation, however, is set at a the lower level (level V, \$131,400 in 2005) than specified in the regulation, which sets a maximum rate of compensation not to exceed level IV. The regulations in Title 41 CFR provide additional guidance for setting compensation at these levels noting that “the significance, scope, and technical complexity of the matters with which the advisory committee is concerned, and the qualifications required for the work involved” should be taken into consideration.

Predecessor Commissions as Models. Whatever the compensation scheme envisioned by prospective statutes, an arguably persuasive justification for its appropriateness is comparability with the compensation language of commissions that have shared similar purpose. Section 2 of the draft bill, “Findings and Purpose”, acknowledges the work of the former Commission on Wartime Relocation and Internment of Civilians. The proposed commission has a mandate similar to that of its predecessor, and adopts a comparable compensation scheme. Such a course would arguably be appropriate.

Critics, however, might oppose this payment framework on the grounds that much of the preliminary investigations on the subject of relocation and internment have already been accomplished, and that the scope of the proposed commission is narrower, targeting only Latin Americans of Japanese descent (who were omitted from the earlier inquiry). Proponents might counter this contention with the argument that conducting investigations further removed in time from the original events may require additional resources. Moreover, as noted in sec. 2 (a) (7) of the draft bill, historical archives relating to relocation, internment, and deportation exist in “distant archives,” and were not researched by the original commission.

Current Commission Proposals as Models. In addition to citing the compensation schemes of once-existing commissions, comparisons can be made with other similar purpose commission-creating proposals in recent Congresses. For example, in the 109th Congress, The Wartime Treatment Study Act was introduced as identical bills in both chambers by Senator Feingold and Representative Wexler (S. 1354 and H.R. 3198). Its stated purpose is “To establish commissions to review the facts and circumstances surrounding injustices suffered by European American, European Latin Americans, and Jewish refugees during World War II.” S. 1354 was reported November 17, 2005 by the Senate Judiciary Committee without amendment.

⁷ The Executive Schedule sets the pay rates for top federal officials, from the President, Vice President, and Cabinet officers down to the heads and sub-heads of federal agencies.

The bill proposes the creation of two separate commissions, one to study the federal government's actions during World War II that violated the civil liberties of European Americans, and European Latin Americans, and another commission to make a similar study of the treatment of Jewish refugees. Significantly, the legislation specifies that members of both commissions shall serve without compensation.

It could be argued that the use of volunteer commissioners, which reduces the required authorization, factored into the favorable consideration by the Judiciary Committee. But this might not be appropriate as a legislative strategy for this commission. On the one hand, reporting lower personnel costs may increase chances for consideration and passage. On the other, without compensation for members, it may be difficult to attract the qualified individuals necessary to achieve the commission's mandate.

An equally significant factor in the committee reporting of S. 1354, however, may be that its broader ethnic reach drew in a larger constituency in Congress. Here too it is difficult to calculate the actual cause and effect of this strategy. Broadening a bill's purpose to attract additional cosponsors may have the undesired effect of alienating members of the initial coalition. Moreover, a broadened mandate might make it more difficult to accomplish the commission's stated mission.

Cost Saving Strategies. If opposition to proposed commission legislation is simply a matter of fiscal concerns, there are strategies for reducing the overall cost of the bill without modifying the standard compensation language. Economies can be achieved through amendments to other provisions in the bill that reduce the number of members to be appointed, or shorten the statutory lifetime of the commission. The consideration of the Wartime Relocation and Internment of Civilians Act in the 96th Congress provides a pertinent illustration.

As introduced, S. 1647 provided for a commission composed of 15 members. The life of the commission was capped at a maximum of 24 months. During the markup in the Senate Committee on Governmental Affairs, the bill was amended to reduce the membership to seven members and to shorten the duration of the commission to a maximum of 18 months. These revised numbers were in line with the provisions of the House bill H.R. 5499. As enacted, P.L. 96-317 established a commission of seven members that was to report not later than one year after its first meeting, and terminate 90 days after submitting its report. By effectively lowering the required level of authorization, these modifications may have increased the measures chances for passage.

This example may also suggest an indirect strategy for insuring that preferred language ends up in the final version of the bill. Setting membership levels, commission life span, or member compensation artificially high in the introduced version of the bill arguably give proponents a wider range within which to negotiate acceptable language. Based upon the established precedents of appropriate commission provisions, however, it is probable that reasonable provisions would be approved without necessity for this sort of negotiation.

Conclusions. As demonstrated by the foregoing observations, decisions regarding membership compensation provisions in commission-creating legislation present a range of practical and political considerations. Such choices, insofar as they have fiscal impact, may exert some influence on a given proposal's chance of favorable consideration. Conversely, the same decisions can undermine the ultimate effectiveness of the resultant advisory bodies. On balance, however, these issues are probably not determinative of whether a commission

Feingold
Commission

JA Bill

CRS-7

statute is considered and approved by Congress. Ultimately, the saliency of the issue, the formation of a coalition of like-minded constituencies, and the political climate of the times may be more consequential predictors of a successful legislative outcome.

I trust this information is sufficient to your needs. If you have further questions please contact me at 7-7290.

Hist. & Stats

MEMORANDUM

TO: SENATOR
FROM: Van Luong and Daniel Chun
DATE: June 5, 2007
RE: History Latin Americans of Japanese Descent

Summary

Documents reflect that between December 1941 and February 1948, 2,264 Latin American persons of Japanese ancestry were deported from Bolivia (57), Colombia (12), Cuba (5), Dominican Republic (1), Costa Rica (27), Ecuador (11), El Salvador (6), Honduras (1), Mexico (84), Nicaragua (6), Panama (247), and Peru (1799) without legal proceedings, warrants, hearings, or indictments¹. As early as October of 1941, the Justice, State, and War Departments began developing strategies for the internment and deportation within the U.S. and Latin America, and an agreement was struck with Panama, under which “enemy aliens” would be arrested and interned.

On December 7, 1941, Japan attacked Pearl Harbor and the U.S. entered World War II. The following day, the U.S.-Panama agreement was put into effect, and 2264 persons were detained and either interned or deported to the U.S. for internment. These deportations were carried out under provisions adopted by the Meeting of Foreign Ministers (delegates from the United States, Argentina, Brazil, Chile, Mexico, Uruguay and Venezuela), held in Rio de Janeiro from January 15-28, 1942. The meeting established a seven-member Emergency Advisory Committee for Political Defense to make future decisions. State Department documents indicate that the Emergency Advisory Committee was created as a U.S. initiative to give multilateral cover, and to “avoid charges of [U.S.] intervention²” in the deportations.

Leaders

At the time of the 1942 Rio de Janeiro meeting, the President of Argentina was Roberto Maria Ortiz, although his vice-president, Ramón Castillo had assumed executive power due to the President’s failing health. In Brazil, Getúlio Vargas ruled in the style of European fascists since the Constitution of 1934 gave him broad powers. In Chile, President Juan Antonio Ríos abandoned his policy of neutrality between the axis and allies, enjoying close relations with the U.S., which proved to be a constant source of domestic problems. Mexico’s president, Manuel Ávila Camacho declared war against the Axis powers on May 22, 1942 in response to the sinking of two Mexican oil ships by German submarines. In Uruguay, Alfredo Baldomir assumed the office of President on June 19, 1938 and is most noted for his close relations with the allied powers. During

¹ Appendix I: Latin Americans. Personal Justice Denied Report of the Commission on Wartime Relocation and Internment of Civilians. http://www.cr.nps.gov/history/online_books/personal_justice_denied/app.htm.

² Memorandum from the Department of State Division of the American Republics. Internment of Japanese in Event of War Between the United States and Japan. November 5, 1941.

World War II, Isaias Medina Angarita held the office of Venezuelan President, until his ouster in 1945.

Although not part of the seven-member meeting, the presidents of Panama and Peru also played a significant role. The Panamanian President, Ricardo Adolfo de la Guardia, negotiated an informal oral agreement with the U.S. in October of 1941 for the deportation and internment of Japanese Latin Americans, which was implemented after the U.S., entered World War II. Peru, since 1873, was a destination for large numbers of Japanese contract workers. By 1940, there were about 26,000 Peruvians of Japanese descent, including 17,600 Issei who represented 28.9% of the foreign population of Peru. The Peruvian government, under Manuel Prado Ugarteche, cooperated with the U.S. plans for internment and deportation and continued to do so until spring of 1944.

U.S. Executive Involvement

President Truman issued two proclamations under wartime powers to apprehend and detain all non-naturalized aliens within the United States over the age of fourteen. Proclamation No. 2662, issued on September 8, 1945, authorized the deportation of all alien enemies within the continental limits of the United States who were sent to the U.S. from other American republics. Proclamation No. 2685 was issued on April 10, 1946, which prescribed regulations in effect regarding the detainment and removal of enemy aliens and superseded Proclamation No. 2662³.

Cui Bono

In the wake of Japan's attack on Pearl Harbor, fear and resentment added to racial tensions in the continental U.S., leading to the internment of ethnic Japanese, many of which were American citizens. The primary reasoning for the internment program in Latin America was to protect vital interests, such as the Panama Canal, from possible surveillance or sabotage by Japanese persons. Latin American countries lacked the resources necessary to enact security programs to the satisfaction of the U.S. and thus the policy of deporting Japanese persons to the U.S. began⁴.

Many Latin Americans of Japanese descent were arrested, stripped of their passports or visas, and deported to the U.S.⁵ Once in the United States, they were treated as illegal aliens, subject to deportation and repatriation. The Department of Justice position was clear from deportation hearings convened for some of the interned individuals. One such hearing is recounted in the written testimony of two Peruvian Japanese, Eigo and Elso Kudo:

We were one of those who asked, "Why are we illegal aliens when we were brought under armed MPs and processed by the immigration officers

³ Presidential Proclamation 2685. April 10, 1946. Reproduced in National Archives May 24, 2007.

⁴ Barnhart, Edward N. "Japanese Internees." p. 172.

⁵ Campaign for Justice Action Packet. www.campaignforjusticela.org/resources/pdf/cfjactionpacket.pdf

upon arrival in New Orleans?” . . . Again and again they repeated, “You are illegal aliens because you have no passports nor visa . . .”⁶

The internees’ vulnerable position under the law basically left their fate in the hands of the State Department and Department of Justice. Those caught in this situation were considered repatriable and thus available for use in hostage exchanges with Japan. It is estimated that Japan had approximately 15,000 repatriable Americans versus the six to seven thousand in U.S. custody. The internment of Latin American Japanese was a response to the need for hostages to trade for U.S. civilians and military personnel, in which Japan had a decided advantage. According to a State Department document from Acting Secretary of State Breckinridge Long to the U.S. Ambassador to Peru, R. Henry Norweb, “an eventual deficiency of Japanese to be exchanged may develop⁷.” It was due to the U.S. hostage exchange deficit that 2,264 Latin Americans of Japanese descent were interned, deported, and then repatriated to Japan without due process of law.

Latin American nations were motivated to participate in the deportation program through the U.S. Lend-Lease Trade consignments. Under the Lend Lease Act, passed March 11, 1941, the United States awarded Latin American countries war materiel to participant countries in exchange for allowing U.S. military bases on Latin American soil⁸. After war broke out, the United States placed a small military installation near the northern oil fields of Peru in return for \$29 million in war materiel, the largest award to any Latin American country⁹. It is also of note that the Peruvian government was apt to be rid of its Japanese population due to racial tensions stemming from economic competition and long-standing racial prejudice.

Peru wished to deport all Japanese and other Axis nationals as well, but the United States recognized its limited need of Latin American Japanese for exchange with Japan; the problems of limited shipping facilities; and the administrative burden of a full-scale enemy alien deportation program¹⁰.

It was practical calculations rather than moral considerations that prevented the mass deportation of Peru’s 26,000-strong Japanese population.

⁶ Written testimony, Eigo and Elsa Kudo, Chicago, Sept. 22, 1981.

⁷ Memorandum from Acting Secretary of State Breckinridge Long to U.S. Ambassador to Peru R. Henry Norweb. October 22, 1943.

⁸ *Public Laws. Part 1 of United States Statutes at Large Containing the Laws and Concurrent Resolutions Enacted During the First Session of the Seventy-Seventh Congress of the United States of America, 1941-1942, and Treaties, International Agreements Other than Treaties, and Proclamations.* Vol. 55 (Washington: Government Printing Office, 1942): 31-33.

⁹ Appendix I: Latin Americans. Personal Justice Denied Report of the Commission on Wartime Relocation and Internment of Civilians.

¹⁰ *Ibid.*

MEMORANDUM

TO: SENATOR INOUE
FROM: Timothy Koide
DATE: May 25, 2007
RE: Japanese Latin Reparations Bill Update

From December 1941 to February 1948 the U.S. government implemented a program that deported 2,264 persons of Japanese ancestry from 13 Latin American countries¹. Over 800 of these individuals were used in hostage exchanges between the U.S. and Japan. Without legal proceedings, warrants, hearings, or indictments, these persons were placed in State Department custody or in INS internment camps. Prior to deportation, many of these individuals were stripped of passports, and citizenship, and thus were deemed illegal aliens subject to rules of deportation and repatriation². The actions taken against the Japanese Latin Americans were carried out pursuant to regulations set forth by the Final Act of the Third Meeting of Ministers of Foreign Affairs of the American Republics, or the Conference of Foreign Ministers, held in Rio de Janeiro from January 15-28, 1942, and the subsequent establishment and recommendations of the seven-member (United States, Argentina, Brazil, Chile, Mexico, Uruguay and Venezuela) Emergency Advisory Committee. The regulatory basis of the deportation and internment program was founded upon Resolution XVII of the Conference of Foreign Ministers, adopted on January 28, 1942, and Resolution XX of the Emergency Advisory Committee for Political Defense adopted at Montevideo on May 21, 1943.

Resolution XVII provided that the American republics concerned would pursue “extraordinary measures of continental defense...against groups and individuals that seek to weaken their defense from within³.” The regulations of the resolution were to be carried out as the various republics’ existing laws and constitutions already provided. Those regulations required an alien registration system; the detainment or restriction of the freedom of movement; the restriction of certain contraband items; a limit placed on internal travel; the prohibition of participation in tripartite subscribing organizations; and the protection of all aliens not deemed dangerous to security. The Conference resolution also established the seven-member Emergency Advisory Committee⁴, of which committee’s recommendations were followed in implementing the deportation and internment program.

¹ Campaign For Justice Action Packet. www.campaignforjusticejla.org. May 24, 2007.

² Ibid.

³ Resolution XVII of Conference of Foreign Ministers at Rio de Janeiro. January 28, 1942.

⁴ Ibid.

The Emergency Advisory Committee was designed with unanimity of all of its member nations; however, there is evidence that its creation was spawned from a U.S. lead initiative. According to correspondence between top-level State Department officials, the Committee was established to “avoid charges of [U.S.] intervention⁵” in the internal affairs of other nations. In other words, it may, to a certain extent, have given a multilateral cover for the interests of the United States.

Communication with the Japanese government throughout the war years was carried out through the Spanish embassies and consulates in the U.S. and Latin America. Several times, the Japanese Government protested the forced movement and ill-treatment of Japanese Latin Americans through the Spanish embassy⁶.

The committee’s recommendation for the internment of Axis Nationals in Resolution XX, presented a problem for many Latin American nations because they did not have the resources to intern their resident axis nationals. Thus, the process of deporting them to the United States began. The precedent for deportation to the United States was set rhetorically between Panama and the U.S. through an informal agreement struck before the war began. Memoranda from October 1941 between the Foreign Minister of Panama and US Ambassador to Panama Wilson indicates that Panama would intern Japanese nationals in the event of conflict when and if the United States took the same action against its alien residents. In a State Department document dated Nov. 9, 1941 the Panamanian Cabinet’s views concerning the onus of a possible internment program is made clear:

...the United States Government should take care of the expenses of internment, and should agree to hold Panama harmless against any claims which might arise as a result of interning aliens...

Initially the program sought to distinguish ‘dangerous’ and ‘non-dangerous’ enemy aliens. This responsibility was given to local officials with oversight and assistance provided by U.S. officials. In Peru the process was overseen, beginning in 1942 (before the official resolution of the Emergency Advisory Committee calling for internment and deportation) by the third secretary of the U.S. Embassy in Lima, John K. Emmerson. However, the program was sullied by the bribes of influential Japanese officials and businessmen, and the corruption of Peruvian officials. Often this resulted in switches, interning and deporting many who posed no threat to security according to the definition.

⁵ Memorandum from the Department of State, Division of American Republics from JM Cabot. Nov. 24, 1943.

⁶ Four telegrams from the Spanish Embassy in Washington regarding Internees from Peru. Oct. 1, 1942; Feb. 10, 1943; May 31, 1944; Aug. 7, 1944.

⁷ Memorandum from the Department of State Division of the American Republics. Internment of Japanese in Event of War Between the United States and Japan. Nov. 5, 1941

Indeed, it was the opinion of at least some in the State Department, as indicated in a State Department memorandum received by Latin American posts dated Nov. 23, 1942, that the segregation of those deemed 'dangerous' from those considered 'non-dangerous' would be replaced with the assumption that all Japanese nationals were dangerous⁸. In May of 1943 the Emergency Advisory Committee issued an official resolution calling for the internment and deportation of dangerous Axis nationals. By the end of the summer of 1943, however, Emmerson no longer saw the Japanese residents of Peru as a security threat, yet the deportation program persisted⁹.

There were two exchanges of prisoners during the war that deported a total of 865 persons of Japanese ancestry. The first took place on June 18, 1942, and included 128 Japanese Latin Internees who left on a ship from New York City. The second took place on September of 1943 again leaving from New York City with a total of 737 Japanese Latin Americans. The idea was the result of simple math calculations indicating a U.S. hostage exchange deficit. Compared to 15 thousand civilians and repatriable military personnel of the Western Hemisphere in Japanese custody, there were only six or seven thousand Japanese nationals in the United States eligible and willing to be exchanged. According to a State Department document from Acting Secretary of State Breckenridge Long to US Ambassador to Peru R. Henry Norweb, "an eventual deficiency of Japanese to be exchanged may develop"¹⁰. It was the position of the Acting Secretary of State that the Spanish Embassy illuminate to the Japanese government the situation of Japanese nationals in Peru in order to push them into requesting repatriation of those individuals. The Secretary went further to suggest that the Japanese nationals, through the Spanish or Red Cross, contact influential family and friends to arrange for their travel. The Secretary was clear to the Ambassador in his letter that this process could be ruined if the Japanese government were to discover U.S. involvement¹¹.

On Sept. 8, 1946 President Truman issued President's Proclamation No. 2662 that authorized the deportation of all alien enemies within the continental limits of the United States who were sent to the U.S. from other American republics. On April 10, 1946 President Truman issued Proclamation 2685 that superseded the previous Proclamation 2662 prescribing regulations "additional and supplemental" to all previous regulations in effect regarding the detainment and removal of enemy aliens¹².

⁸ Memorandum from the Department of State to Latin American posts. Nov. 3, 1942.

⁹ Personal Justice Denied Report of the Commission on Wartime Relocation and Internment of Civilians. p. 310.

¹⁰ Memorandum from Acting Secretary of State Breckenridge Long to U.S. Ambassador to Peru R. Henry Norweb. Oct. 22, 1943.

¹¹ Ibid.

¹² Presidential Proclamation 2685. April 10, 1946. Reproduced in the National Archives May 24, 2007.

The proclamation was based on the powers given to the President during wartime under 50 U.S. Code 21 section 4067 and 4068, to apprehend and detain all non-naturalized aliens within the United States over the age of fourteen; and in accordance to Resolution XVII of the Conference of Foreign Ministers at Rio de Janeiro, and subsequently on Resolution XX of the Emergency Advisory Committee for Political Defense.

In all over 900 Japanese Latin Americans were deported to Japan. Over 350 stayed in the U.S. and battled deportation. About 100 of those individuals were eventually granted passage to Latin America. After 1952's Immigration Act and the San Francisco Peace Treaty were ratified, those left in the United States began the process to become permanent U.S. residents and many later became U.S. citizens¹³.

¹³ Campaign For Justice Action Packet. www.campaignforjusticejla.org. May 24.

Leaders of JLA Nations During Internment and Deportation Years

	Political Head	Years in Office	Total Japanese Deported to the United States	Total Remaining in US as of Jan. 30, 1946
Bolivia	Enrique Penaranda del Castillo	April 15, 1940- Dec. 20, 1943	57	18
	Gualberto Villarroel Lopez	Dec. 20, 1943- July 21, 1946		
Colombia	Eduardo Santos Montejo	Aug. 7, 1938- Aug. 7, 1942	12	-
	Alfonso Lopez Pumarejo	Aug. 7, 1942- Aug. 7, 1945		
	Alfonso Lleras Camargo	Aug. 7, 1945- Aug. 7, 1946		
Cuba	Fulgencio Batista	Oct. 10, 1940- Oct. 10, 1944	5	-
	Ramon Grau San Martin	Oct. 10, 1944- Oct. 10, 1948		
Dominican Republic	Manuel Trancoso de la Concha	March 7, 1940- May 18, 1942	1	-
	Rafael Trujillo	May 18, 1942- Aug. 16, 1952		
Costa Rica	Rafael Angel Calderon Guardia	1940-1944	27	-
	Teodoro Picaldo Michalski	1944-1948		
Ecuador	Carlos Alberto Arroyo del Rio	Sept. 1, 1940- May 29, 1944	11	-
	Julio Teodoro Salem Gallegos	May 29, 1944- May 31, 1944		
	Jose Maria Velasco Ibarra	May 31, 1944- Aug. 23, 1947		

El Salvador	Maximiliano Hernandez Martinez	March 1, 1935- May 9, 1944	6	-
	Andres Ignacio Menendez	May 9, 1944-Oct. 20, 1944		
	Osmin Aguirre y Salinas	Oct. 21, 1944- March 1, 1945		
	Salvador Castaneda Castro	March 1, 1945- Dec. 14, 1948		
Honduras	Tiburcio Carias Andino	Feb. 1, 1933- Jan. 1, 1949	1	-
Mexico	Manuel Avila Camacho	Dec. 1, 1940- Nov. 30, 1946	84	-
Nicaragua	Anastasio Somoza Garcia	Jan. 1, 1937- May 1, 1947	6	-
Panama	Ricardo Adolfo de la Guardia Arango	Oct. 9, 1941- June 15, 1945	247	-
	Enrique Adolfo Jimenez Brin	June 15, 1945- Aug. 7, 1948		
Peru	Manuel Prado y Ugarteche	Dec. 8, 1939-July 28, 1945	1799	495

Total: 2264 513

Calculations for JLA deaths in camp:
[need to research death certificates]

JLA deaths in camp: between 8 and 45

total JLAs interned in camp:		2332		2332
total JLAs deported from US:	between	<u>1922+</u>	and	<u>1959</u>
	between	410+	and	373
JLAs who initially stayed in US:		<u>365</u>		<u>365</u>
Possible range of JLA deaths	between	45	and	8

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PERSONAL JUSTICE DENIED

Report of the Commission on Wartime Relocation and Internment of Civilians

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During World War II the United States expanded its internment program and national security investigations to Latin America on the basis of "military necessity." On the government's invitation, approximately 3,000 residents of Latin America were deported to the United States for internment to secure the Western Hemisphere from internal threats and to supply exchanges for American citizens held by the Axis. Most of these deportees were citizens, or their families, of Japan, Germany and Italy. Although this program was not conducted pursuant to Executive Order 9066, an examination of the extraordinary program of interning aliens from Latin America in the United States completes the account of federal actions to detain and intern civilians of enemy or foreign nationality, particularly those of Japanese ancestry.

What began as a controlled, closely monitored deportation program to detain potentially dangerous diplomatic and consular officials of Axis nations and Axis businessmen grew to include enemy aliens who were teachers, small businessmen, tailors and barbers—mostly people of Japanese ancestry. Over two-thirds, or 2,300, of the Latin American internees deported to the United States were Japanese nationals and their families; over eighty percent came from Peru. [1] About half the Japanese internees were family members, including Nisei, who asked to join their husbands and fathers in camps pending deportation to Japan; family members were classified as "voluntary internees." [2]

Underlying these deportations was fear of Japanese attack in Latin America, particularly at the Panama Canal, which produced suspicion of Latin American Japanese. But a curious wartime triangle trade in Japanese aliens for internment developed, too. Some Latin American countries, particularly Peru, deported Japanese out of cultural prejudice and antagonism based on economic competition; the United States, in turn, sought Latin American Japanese internees to exchange with Japan for American citizens trapped in territories Japan controlled. The same dynamic often affected Germans and Italians.

Deportees from Peru for internment in the United States dominated the Latin American deportation program and thus this discussion centers on them. The history of the Japanese in Peru offers suggestive parallels to West Coast history.

In the late 19th and early 20th centuries, expanding agriculture in Latin America attracted surplus skilled farm labor from Japan; by 1923 almost 20,000 Japanese had settled in Peru alone. [3] During the 1930's, economic depression in Japan and restricted immigration to the United States [4] drew more Japanese to Latin America, where 23,000 entered Brazil in a single year. [5] Worsening economic conditions in Latin America, however, brought discriminatory legislation and business practices aimed at these immigrants.

Japanese in Peru inherited years of prejudice earlier directed against Chinese immigrants. Many Japanese in Latin America had migrated to urban areas where they built close-knit communities, opened small businesses and gained economic independence. The Peruvian Japanese formed ethnic business associations and social organizations, and, although some Japanese married

Peruvian Motives

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Notes

Peruvians and the typical family joined the Roman Catholic church, [6] many kept a love of Japan, nursed feelings of cultural superiority and sent their children to Japan for formal education. In Peru, most Japanese immigrants steadfastly refused Peruvian citizenship. This history fueled Peruvian resentment against them; economic competition, including fears of Japanese farmers and merchants monopolizing fertile land and some service industries, aggravated prejudice. Peru severely restricted Japanese immigration in 1936 and followed up by restricting the right to citizenship of some Peruvian Japanese, including Kibei. In 1940, when about 26,000 Japanese lived in Peru, including 9,000 Nisei, [7] riots broke out. Japanese businesses were destroyed and homes ransacked, and restrictive laws muzzled the Japanese press.

Reasons for prejudice

Evidence of Prejudice

By 1940, the United States had become directly involved with security in Latin America. After the European war erupted in 1939, the government posted FBI agents in United States embassies in Latin America to compile information on Axis nationals and sympathizers. [8] Following Pearl Harbor, the United States immediately moved to secure the Western Hemisphere against dangerous enemy aliens. For the first time, Japanese-owned businesses in Latin America appeared on the United States' Proclaimed List of Blocked Nationals and were thus blacklisted through economic warfare. After a meeting of Western Hemisphere nations early in 1942, the Emergency Advisory Committee for Political Defense was created, composed of representatives from the United States, Argentina, Brazil, Chile, Mexico, Uruguay and Venezuela. The Committee forwarded to Latin American countries recommendations to control subversive activities and to secure the hemisphere, emphasizing internment of Axis nationals. [9] Several Latin American countries, severing ties with the Axis, imposed restrictions against Axis nationals.

Acting on Emergency Advisory Committee recommendations or in response to United States security efforts, sixteen Latin American countries interned at least 8,500 Axis nationals during World War II. [10] Economic and political pressure from the Proclaimed Lists and the Emergency Advisory Committee, coupled with Latin American nations' inability to establish costly security programs, encouraged the United States to accept Latin American enemy aliens for internment. Twelve Latin American countries—Bolivia, Colombia, Costa Rica, the Dominican Republic, Ecuador, El Salvador, Guatemala, Haiti, Honduras, Nicaragua, Panama and Peru—deported some or all of their enemy alien internees to the United States. [11] (Brazil and Venezuela did not.) Once in the United States, the State Department had custody and held internees in camps operated by the Justice Department's Immigration and Naturalization Service (INS).

U.S. motivations

The model of the Latin American deportation and internment program was developed in Panama. Before the war, the United States had agreed orally and informally with Panamanian officials to intern Japanese nationals during wartime. After the Pearl Harbor attack, Panama declared war on the Axis and froze Japanese assets. Japanese aliens were arrested by Panamanian and American agents for security reasons because they were near the Canal Zone. The War Department instructed the Commanding General of the Caribbean Defense Command to construct an internment camp in Panama for enemy aliens. [12] Panama later agreed to transfer internees to the United States to be traded for Western Hemisphere nationals held in Japan. [13]

In Peru, the State Department aimed to eliminate potential military threats and to integrate Peru's economy and government into the war effort. After war broke out, Peru notified the War Department that the United States could place military installations there; a small military force eventually encamped near the oil fields of northern Peru, and the United States promised \$29 million in armaments through Lend-Lease agreements, the largest pledge to a Latin American state. [14] Peru moved quickly against its Japanese residents,

Payoff for Peru

whose newspapers, organizations and schools were closed after December 7. Japanese assets were frozen, and the Proclaimed Lists brought hardship to Japanese businesses; some Peruvian Japanese were asked to leave. Before any deportations occurred, almost 500 Japanese registered repatriation requests at the Spanish Embassy, which represented Japan's interests in Peru. [15] This group was among the first to be deported. The initial targets of the American-Peruvian deportation program were enemy alien diplomatic and consular officials and some business representatives of Japan. Peru wished to deport all Japanese and other Axis nationals as well, but the United States recognized its limited need of Latin American Japanese for exchange with Japan; the problems of limited shipping facilities; and the administrative burden of a full-scale enemy alien deportation program. The United States limited the program to deporting officials and "dangerous" enemy aliens.

John K. Emmerson, Third Secretary of the American Embassy in Peru, who had been a language student in Japan and could speak and read Japanese fluently, was assigned to help the Peruvians identify "dangerous" aliens and compile deportation lists. [16] But deportations were in fact planned with little coordination between the United States and Peru, and Peru chose some deportees over others for no apparent reason, although bribery may have been involved. Moreover, the inaccurate portrayal by Peruvian officials of Peruvian Japanese as deceptive and dangerous encouraged the United States to deport and intern not only Japanese nationals, but some Peruvian citizens of Japanese descent. [17]

During early 1942, approximately 1,000 Japanese, 300 Germans and 30 Italians were deported from Peru to the United States, along with about 850 German, Japanese and Italian aliens picked up in Ecuador, Colombia, and Bolivia [18] and an additional 184 men from Panama and Costa Rica. [19] Normal legal proceedings were ignored and none of the Peruvians were issued warrants, granted hearings, or indicted after arrest. On entering the United States, officials of Axis nations were placed in State Department custody and private citizens were sent to INS internment camps in Texas. In most cases passports had been confiscated before landing, and the State Department ordered American consuls in Peru and elsewhere to issue no visas prior to departure. [20] Despite their involuntary arrival, deportees were treated by INS as having illegally entered this country. [21] Thus the deportees became illegal aliens in U. S. custody who were subject to deportation proceedings, i.e., repatriation.

Most of the first group of deportees from Peru were men, primarily diplomatic and consular officials, representatives of Japanese business interests, and private citizens targeted as community leaders and thus "believed to be dangerous." Categorical classifications of some as "believed to be dangerous" enabled the deportation of many private citizens because the United States was unwilling to investigate the need to deport each individual. As John Emmerson later stated: "Lacking incriminating evidence, we established the criteria of leadership and influence in the community to determine those Japanese to be expelled." [22]

By June 1942, many Latin American countries had severed diplomatic relations with the Axis nations. Lend-Lease and trade consignments between the United States and Latin America had strengthened hemispheric unity. But the United States was not confident that Latin America could control subversive activity and thus increased its interest in the deportation and internment program. By this time traffic in the exchange of Japanese and other Axis nationals for American citizens was growing. By early 1942, aided by Swiss and Spanish intermediaries, the United States and Japan had begun negotiating for the exchange of nationals, both officials and private citizens. By July, the United States had deported approximately 1,100 Latin American Japanese and 500 Germans to their home countries. [23] Enemy alien citizens who threatened nothing were uprooted from their homes to be used in the

exchange. By August 1942, the State Department estimated that, in addition to the Americans caught as Japan advanced across the southwest Pacific, at least 3,300 Americans were trapped in China and available for exchange with Japan. [24] These considerable numbers increased American interest in receiving Japanese deportees from Latin America. But slow communications, problems in obtaining assurances that repatriates could pass safely through the war zone, shipping shortages, and Justice Department refusal to repatriate an individual against his will, delayed further repatriations for over a year. As a result, "dangerous" enemy aliens were deported to the U.S. at a comfortable pace for both Latin America and the United States, including INS administrators seeking to prevent overcrowding in the camps.

In January 1943, after 200 more Japanese aliens had been deported from Peru, the Justice Department refused a State Department request for the deportation of another 1,000 Latin American Japanese. [25] Unsatisfied with the screening procedures of the American embassy in Peru as well as Peruvian practices in identifying dangerous individuals, the Justice Department sent Raymond Ickes of its Alien Enemy Control Unit to Peru to oversee the selection. Ickes, partially successful in overcoming low-level Peruvian officials' obstructionism and indifference, entertained a novel idea shared by other American officials in Peru and President Prado—to establish internment camps in Peru financed by the United States. The Administration had already requested appropriations to establish an internment camp in Cuba. Moreover, the State Department was reluctant to encourage Peru to breach international law by sending all its Peruvian Japanese from a nonbelligerent state directly to a belligerent one. [26] But the American embassy in Peru vetoed the Peruvian camp idea, distrusting Peruvian officials' ability to intern dangerous individuals—a view supported by Peru's record in the deportation. As Emmerson had reported earlier, "since local police and other officials are susceptible to Japanese bribes, their alertness cannot be depended upon." [27] Indeed, Arthur Shinei Yakabi, a bakery worker deported from Peru, testified: "I was asleep in February 1943 when some Peruvian police came and arrested my employer. My employer pulled a fast one by bribing the police, and offered me as a substitute." [28] In addition, the embassy's view of the danger posed by Peruvian Japanese was changing by the end of summer 1943; Emmerson, now Second Secretary, was confident that the Japanese community no longer constituted a threat to security. [29] The Latin American deportation program continued nevertheless.

In May 1943, the Emergency Advisory Committee adopted a resolution that American republics intern and expel dangerous Axis nationals. [30] Near the end of 1943, the Committee reviewed the Latin American security situation and concluded that direct United States involvement in securing the hemisphere was crucial. Except for Brazil, no Latin American country had initiated security measures compatible with United States standards. The Committee wanted agreements for deportation programs from Chile, Uruguay, Paraguay, Venezuela and Colombia.

The repatriation and exchange program proceeded slowly. In September 1943, over 1,300 Japanese left New York for Japan, over half from Peru, Panama, Costa Rica, Mexico, Nicaragua, Ecuador, Cuba, El Salvador and Guatemala; almost 40 percent of the entire contingent was from Peru. [31]

In the spring of 1944, the State Department realized that no more Axis nationals would be repatriated until the war was over. Nevertheless, from January to October 1944, over 700 Japanese men, women, children and 70 German aliens were deported from Peru to the United States, along with over 130 enemy aliens from Bolivia, Costa Rica and Ecuador. [32] Peru pushed for additional Japanese deportations, but the United States could not commit the shipping and did not want to augment the hundreds of Japanese internees awaiting repatriation. The State Department also decided not to repatriate

Axis nationals against their will, realizing that many internees might not want to return to a devastated country. Thus deportation proceedings lagged and the INS internment camps became overcrowded.

Internees at INS camps in Crystal City, Kennedy and Seagoville, Texas, and Missoula, Montana, had two main concerns: having their families join them in the United States and repatriation to Japan. Living conditions at the camps were not unlike those in the war relocation centers. Confinement's bad effects were evident: lack of privacy, family breakdown, listlessness and uncertainty about the future. To safeguard the internees from unhealthy conditions, the camps were inspected routinely by Spain, the International Red Cross, the War Prisoners Aid of the YMCA and the YWCA, the American Friends Service Committee, and the National Catholic Welfare Conference. At the end of the war, approximately 1,400 Latin American Japanese, mostly from Peru, were interned in the United States, awaiting a decision on their destiny. Some wished to return to Latin America, others to Japan. To most it was a choice of the lesser of two evils: they had lost everything in Latin America, but Japan, which they had left to pursue greater economic opportunity, was devastated by the war. A number wanted to remain in the United States and begin anew.

As the end of the war approached in Summer 1945, the United States and other Western Hemisphere nations began to consider the postwar fate of interned Axis nationals. President Truman issued Proclamation 2655 authorizing the United States to deport enemy aliens deemed "to be dangerous to the public peace and safety of the United States." [33] The Latin American Conference on Problems of War and Peace passed a resolution recommending that persons deported for security reasons should be prevented from "further residing in the hemisphere, if such residence would be prejudicial to the future security or welfare of the Americas." [34]

The State and Justice Departments disagreed about security measures to take against interned enemy aliens. The Justice Department wanted to remove internees from its jurisdiction and divorce itself from the deportation and internment program; the State Department wanted to conclude the program by removing all dangerous Axis influences from the hemisphere. [35] As part of its long-term security strategy, in September 1945 the State Department secured a proclamation from President Truman directing the Secretary of State to remove any enemy aliens in the United States from the Western Hemisphere, including those from Latin America, who were illegal aliens and dangerous to hemispheric security.

In December 1945, approximately 800 Peruvian Japanese were voluntarily deported to Japan, [36] but in general the internment ended very slowly and tortuously. The United States sought to return internees who were not classified as dangerous and who refused deportation to Axis countries, to their points of origin in Latin America. [37] But the common hemispheric interests that bred the deportation had dissolved, and the government now had to negotiate about returning internees to Latin America using weak, hastily-written wartime agreements, for the United States had not exacted initial guarantees defining the deportees' postwar fate. For the most part, the Central American and Caribbean countries that had deported enemy aliens to the United States had placed few restrictions on their disposition. Mexico, Colombia and Ecuador had required specific guarantees before releasing enemy aliens to the United States. Peru, Ecuador and El Salvador wanted jurisdiction over internees in order to obtain the return of some German deportees, for many Germans in Latin America, unlike the Japanese, had acquired economic and political influence as well as greater social acceptance. Peru had sought no firm agreement from the United States concerning final destination and wanted to restrict the return of Japanese (but not German) internees. The United States wanted a consistent policy for the Latin American internees and gave Peru the choice of accepting all

non-dangerous internees or leaving deportation control to the United States. So negotiations dragged on for the return to Peru of Peruvian Japanese.

Meanwhile, the internees used litigation to block deportation to Axis states. Some German internees filed habeas corpus petitions challenging their detention by the United States, claiming that they were not alien enemies as defined by the Alien Enemy Act of 1798, because they were not natives or citizens of an enemy country. In January 1946, this effort failed when a federal district court ruled that the Latin American internees were "alien enemies" who could legally be detained. [38] After this decision, 513 Japanese (over ninety percent from Peru), 897 Germans and 37 Italians from Latin America in United States internment camps were granted hearings pending deportation to Axis countries. [39] The hearings were a formality leading inevitably to deportation to Axis countries, although most of the remaining Latin American Japanese wished to return to Peru. Voluntary repatriation continued into 1946, with at least 130 Peruvian Japanese returning to Japan by June. [40]

The final destiny of the Latin American Japanese was placed in the hands of the Justice Department after the State Department concluded that insufficient evidence existed to call the remaining Japanese internees dangerous to the Western Hemisphere. [41] The State Department, although willing to proceed with deportations to Japan, hoped the Justice Department would stop deportation proceedings against Peruvian Japanese with families in Peru. [42] The process moved very slowly for those who wanted to remain in the United States or return to Peru. Two Peruvian Japanese, Eigo and Elsa Kudo, remembered their anxious waiting period:

There were several hearings to persuade these poor internees to leave for Japan. We were one of those who asked, "Why are we illegal aliens when we were brought under armed MPs and processed by the immigration officers upon arrival in New Orleans?" . . . Again and again they repeated, "You are illegal aliens because you have no passports nor visa. . ." [43]

In August 1946, Wayne Collins, an attorney who had often helped Issei and Nisei over the years, arranged for some Peruvian Japanese to be transferred from INS internment camps to a fresh produce processing plant in Seabrook, New Jersey, where Japanese Americans had worked during the exclusion from the West Coast. The internees welcomed Seabrook as an opportunity to escape camp life, restore traditional family life, and earn relatively decent wages while awaiting word of their ultimate fate; at the same time, it must be recognized that conditions at Seabrook were far less attractive than those of ordinary liberated life. Other internees were paroled from the INS camps under sponsorship of American citizens.

To some extent, returning internees to Peru was further complicated during 1946 by a nationalistic pro-Japan underground movement, the Aikoku Doshi-Kai, which sprang up in Peru and South America. Both Peruvian and American officials overestimated the movement's influence, but the United States accepted Peru's reluctance to bring Japanese deportees back into a country inflamed by anti-Japanese sentiment. Peru announced that it would allow only Peruvian citizens of Japanese descent and Japanese related to Peruvian citizens to return, [44] and from May to October 1946, only about 100 Japanese internees went back to Peru. [45] At the same time, almost 600 German nationals were returned to Latin America in the year 1945-46. [46]

At the beginning of 1947, 300 Peruvian Japanese remained in the United States, the majority at Seabrook. Those with family ties in Peru entertained hopes of returning home. Talks between the United States and Peru were stalemated during 1947; negotiations were renewed with the Peruvian government which had come to power in a coup in the winter of 1948-49, but it refused to accept any non-citizens.

In the spring of 1949, exasperated State Department officials concluded that the only solution to the Peruvian Japanese internee problem was to give internees the status of "permanent legally admitted immigrants" who could remain in the United States. [47] Finally, in July 1952, the remaining Japanese Peruvian internees, having resided in the United States for seven years or more, petitioned the Board of Immigration Appeals to reopen hearings to suspend deportation orders, and Congress approved the deportation suspensions in 1953. The war time deportation and internment program was finally at an end. But, for some, the emotional trauma of the program was endless. Peruvian deportee Ginzo Muroto stated: "Some of the people from Peru who were interned with me were separated from their families for many years. In a few cases, the broken families were never reunited." [48]

Historical documents concerning the ethnic Japanese in Latin America are, of course, housed in distant archives, and the Commission has not researched that body of material. Although the need for this extensive, disruptive program has not been definitively reviewed by the Commission, John Emmerson, a well-informed American diplomat in Peru during the program, wrote more than thirty years later: "During my period of service in the embassy, we found no reliable evidence of planned or contemplated acts of sabotage, subversion, or espionage." [49] Whatever justification is offered for this treatment of enemy aliens, many Latin American Japanese never saw their homes again after remaining for many years in a kind of legal no-man's-land. Their history is one of the strange, unhappy, largely forgotten stories of World War II.

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Dan Inouye

U.S. SENATOR FROM HAWAII



INOUYE ANNOUNCES FINAL PASSAGE OF \$4.3 MILLION FOR SHORTFALL PAYMENTS TO ELIGIBLE INDIVIDUALS UNDER THE CIVIL LIBERTIES ACT OF 1988 AND PERUVIAN SETTLEMENT AGREEMENT

Thursday, May 20, 1999

FOR IMMEDIATE RELEASE

Washington, D.C. -- United States Senator Daniel K. Inouye announced today that the Senate, by a vote of 64 to 36, approved the House-Senate Conference Report on the Emergency Supplemental Appropriations Bill for Fiscal Year 1999. The bill includes an amendment that would permit the Department of Justice to transfer up to \$4.3 million to address a projected shortfall in the funding available to make payments to eligible individuals under the Civil Liberties Act of 1988 and the Peruvian settlement agreement.

"This amendment is necessary because the funds previously appropriated for this purpose did not fully fund payments to all eligible individuals. This is the final, unfinished chapter in one of the darkest episodes in American constitutional and human rights history. This is justice long overdue," said Senator Inouye.

In the fall of 1998, the Office of Redress Administration (ORA) projected a combined shortfall for eligible Japanese American cases and for cases under the Mochizuki settlement of approximately \$2.3 million. The shortfall was projected based on the best available information at the time. However, the ORA now estimates that \$4.3 million is needed to pay the remaining eligible cases. This includes \$1,580,000 for up to 79 eligible Japanese American cases, \$1,980,000 for 396 eligible Japanese Latin American cases, and \$665,000 for 133 Japanese Latin American cases pending eligibility review.

The shortfall is primarily due to two factors. First, the ORA received reversals of appeals affecting more than 50 cases in the last two weeks of the program which ended on August 10, 1998. These appeals mainly involved railroad and mining family members and Hawaii cases. The high volume of reversals received in January 1999, accounted for unexpected payments of approximately \$840,000. Second, documentation on Japanese American cases more than two years old increased in the last two weeks of the program. While the ORA anticipated that a few claimants might respond at the end of the program, nine cases thus far have been paid \$180,000 under this category.

In 1996, Carmen Mochizuki filed a class action lawsuit in Los Angeles, on behalf of former Japanese Latin American internees who were denied an official U.S. government apology

and restitution as provided by the Civil Liberties Act of 1988. Last year, the U.S. Court of Federal Claims approved the \$2.3 million settlement.

The Fiscal Year 1999 Supplemental Appropriations bill will now be transmitted to the White House.

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[Return to Senator Inouye's main page.](#)

Luong, Van (Inouye)

From: Yoshioka, Mary (Inouye)
Sent: Thursday, June 07, 2007 2:03 PM
To: Luong, Van (Inouye)
Subject: here's the info on the language in emergency supp '99

Mochizuki case: Mochizuki et al. v. United States (Case No. 97-294C, United States Court of Federal Claims)

From House Report 106-143 – Making Emergency Supplemental Appropriations for the Fiscal Year ^{FY99} Ending September 30, 1999, and for Other Purposes. (HR 1141, became PL 106-31, Senate version of ^{APPROPS} bill was S. 544)

In PL 106-31 it can be found in the Chapter 11, General Provisions section

(c) FUNDING SOURCE- The Secretary shall use funds available to provide marketing assistance loans and loan deficiency payments under subtitle C of the Agricultural Market Transition Act (7 U.S.C. 7231 et seq.) to make the payments required by subsection (b).

SEC. 3021. Notwithstanding 50 U.S.C. App. 1989b et seq. and in addition to any funds previously appropriated for this purpose, the Attorney General may make available from any funds available to the Department of Justice not more than \$4,300,000 for the purpose of paying restitution to individuals: (1) who are eligible for restitution under the Civil Liberties Act of 1988 (50 U.S.C. App. 1989b et seq.) and who have filed timely claims for restitution; or (2) who are found eligible under the settlement agreement in the case of Carmen Mochizuki et al. v. United States (Case No. 97-294C, United States Court of Federal Claims) and filed timely claims covered by the agreement.

AG has discretion to give \$4.3 million in DOJ funds to individuals

(1) Eligible for restitution ^{under 1988 civil liberties Act} AND Timely filed restitution \$s (OR)

(2) Eligible under the Mochizuki settlement AND Timely filed restitution \$.

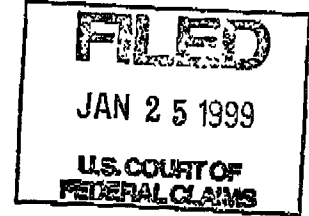
Authorized but not appropriated?

ORIGINAL

In the United States Court of Federal Claims

Case No. 97-294C

Filed: JAN 25 1999



CARMEN MOCHIZUKI, et al.,

Plaintiffs,

v.

THE UNITED STATES,

Defendant.

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Civil Liberties Act of 1988;
Internment during World War II

Robin Toma, Los Angeles, CA, with *Fred Okrand*, for plaintiffs.

Elizabeth Strange, Washington, D.C., with whom were *Tink Cooper*, Office of Redress Administration, *Vincent M. Garvey*, Deputy Director, Federal Programs Branch, Civil Division, U.S. Department of Justice, for defendant.

OPINION AND ORDER

SMITH, Chief Judge

The court approves the settlement of this case based upon the moving and eloquent testimony of several of the class members as well as plaintiffs' fine lawyers. The court believes those class members' statements provide valuable insight into the tragic experiences of Latin Americans of Japanese descent who were interned here during World War II. Accordingly the court has decided to append copies of their statements to this order so that their account of those trying times can be more widely known.

Approval of
Jun. 12, 1998
Settlement
agreement.

No settlement is ever perfect. No compensation is ever equivalent to a serious human loss. Who among us would ever trade our eyes or legs for \$5,000 or \$20,000 or a hundred times that much? Money damages can never undo the loss of life, false imprisonment or the passage of years. Money, however, is the medium which the law must use as it seeks to right wrongs. It must use this medium with the full recognition that it is never truly adequate.

The Twentieth Century has seen untold human suffering wrought by the hands of human beings. The World War out of which this case came was perhaps a pinnacle of mankind's ability to inflict evil upon fellow human beings. I hope we never reach that level again. The statute enacted by the Congress to compensate Americans of Japanese descent was not perfect, however it was a highly moral action. It was an attempt to right a wrong. As such it marks an important milestone in the long road toward decent and civilized life. Few governments over the millennia have even acknowledged past evil, let alone made serious efforts to correct it. We can be very proud of this country for doing so.

Thus, while the wrong is far from perfectly assuaged, the court must acknowledge this as a fair settlement. The plaintiffs asked for the court's help in ensuring additional funding for the settlement. This is beyond the court's constitutional power. However, the court hopes that the Congress and the President will give due consideration to fully funding the settlement so that all identified class members may be paid the modest amount that will serve as a symbol of restitution rather than actual monetary damages. The court must also commend the attorneys and administrative officials of the United States Department of Justice who have worked hard and diligently to handle this settlement and other aspects of the whole claims process.

Upon consideration of the proceedings heretofore conducted in this case and a hearing having been held to determine the fairness, reasonableness and adequacy of the Settlement Agreement executed by the parties on June 10, 1998, it is by this court hereby ORDERED, ADJUDGED AND DECREED that:

1. Pursuant to RCFC 23, the court determines that it is in the interest of justice to certify a class consisting of:

Persons who have not previously received payments under the Civil Liberties Act of 1998 from the Office of Redress Administration, United States Department of Justice, and who are (a) persons of Japanese ancestry who were living in Latin America before World War II and who were interned in the United States at any time during the period from December 7, 1941, to June 30, 1946; or (b) persons who are the spouses, children or parents of persons who died after (August 10, 1988) and who met the qualifications of (a) above. *interned*
immed. relative

Civil Liberties Act signed

Persons who have timely opted out of the class are not included as class members. The court further determines that, for the purposes of settlement, certification of this class is appropriate due to the number of potential class members, the predominance of common questions over questions affecting individual class members, the expiration of the statutory program at issue in this case, and the fact that the current plaintiffs and their attorneys are adequate representatives of the class.

2. The Settlement Agreement executed by the parties on June 10, 1998, is adjudged to be fair, reasonable, and adequate, and its terms are hereby approved.

3. The Second Amended Complaint is dismissed with prejudice.

4. The court shall retain jurisdiction of this action for a period of 180 days after entry of this order and judgment solely for the purpose of adjudicating any claim of a material breach of the Settlement Agreement.

5. In accordance with this order, judgment is hereby entered approving the settlement as proposed in all respects and dismissing the Second Amended Complaint with prejudice.

IT IS SO ORDERED



LOREN A. SMITH
CHIEF JUDGE

APPENDIX

consisting of the declarations of Carmen Mochizuki, Kazuo Matsnbayashi, Rose A. Nishimura, Saduharu Sakamoto, and Grace Shimizu regarding the reaction of members of the class to the Settlement Agreement.

Declaration of Carmen Mochizuki

I, Carmen Mochizuki, have personal knowledge of the facts stated herein. If called to testify, I could and would competently testify as follows:

1. My name is Carmen Higa Mochizuki. I am one of the named plaintiffs in this lawsuit, *Mochizuki, et al. v. U.S.* I appreciate the chance to let Chief Judge Smith know how I feel about the agreement, why I agreed to it, and what my concerns are today.
2. I was born on December 9, 1932 in Callao, Peru. My parents, Rensuke and Kamado Higa, raised me along with my nine brothers and sisters on a large farm. I am now 67 years old and use my husband's surname.
2. During World War II, in March, 1944, my family and I were abducted and forcibly removed from Peru and taken to Crystal City, Texas where we lived for almost two years in an internment camp.
3. In Peru, my father had been a successful farmer. He was well respected as an accomplished horseman and was a leader in the community. I am informed and believe that it was because of my father's leadership in the community, that he was targeted for arrest by the United States and the Peruvian governments.
4. I was 11 years old at that time. The Peruvian police came to my school and demanded that I take them to my father. They walked with me to my home and I told them that I would have to go around to the back of the house to open the door. I warned my father who then escaped out a back window.
5. He evaded arrest for one year, but when he was threatened with life imprisonment with no contact with his family, he turned himself in to the F.B.I. The government took control of all of the family's assets. We lost everything. We were shipped to Crystal

City internment camp. I remember in New Orleans, after we got off the ship, how embarrassed I felt as a little girl when they made my mother and the children remove all of our clothing so that they could spray us with some insecticide.

6. In December, 1945, after the war ended, the family was deported to war-devastated Japan. The family nearly starved. In order to get a pound of sweet potatoes or a pound of rice, we exchanged a pair of shoes or a dress.
7. My parents are the ones who suffered so much, but now they are gone. My father died in Okinawa a few years after the war's end. He was only 63 years old. My mother must have felt so helpless not being able to explain the suffering that we were going through. I feel so sorry when I think of my parents, and I'll feel that until I die. I eventually returned to the U.S. and married a U.S. citizen.
8. Today when I see the homeless, the suffering people in this country, I know what they are suffering. If I didn't go through that in Japan, I would be a different person today.
9. I tell this painful story in remembrance of my family, so that others will know how devastating this event was for us. Although I was just a young girl, I know that what happened to us was a grave injustice and it should never occur again in a civilized world. I hope with all of my heart that no group will ever have to undergo such an experience.
10. I support the decision to settle the class action lawsuit of *Carmen Mochizuki vs. the United States of America*, however, with reservations. Although my family and others suffered the loss of liberty, freedom and assets as a direct result of the action of the United States of America, we can never be adequately repaid. The United States government has seen fit to compound the travesty by offering to settle this case for

less than was deemed necessary for others interned under the same conditions.

- 11 The United States government has issued an official apology and determined a set amount as redress to its citizens whom it illegally and wrongfully deprived of freedom and livelihood. Why would the people, although not citizens of the United States of America at that time, who were kidnapped from their own country, and interned in the United States by the United States, be entitled to any less?
- 12 Also, I am very worried about many, and maybe all, of the Japanese Latin Americans not receiving the \$5,000 redress payment, which was the main purpose of the settlement agreement. I was very upset to find out that the U.S. government broke the law and did not pay interest on the redress monies, and because of it, so many of us who have suffered and waited so long for justice, may end up not receiving any redress payment at all.
- 13 The process of seeking justice and closure for this dark period of time has drained me. Reliving the terror and loss has produced this end. It is under this strain and with these reservations that I thankfully and gratefully accept the settlement as a tribute to the efforts of those who have diligently and righteously fought for what is true, right and just.

I swear under the penalty of perjury of the laws of the United States that the foregoing is true and correct, and that this declaration was executed on January 5, 1999, at Los Angeles, California.


Carmen Mochizuki

DECLARATION OF KAZUO MATSUBAYASHI

I, Kazuo Matsubayashi, do declare as follows:

1. If called to testify, I could and would do so competently on the matters stated in this declaration, which are based on personal knowledge or information and belief. This declaration was done in connection with the case, *Mochizuki v. U.S.* (Case No. 97-294C), in the U.S. Court of Federal Claims.

2. I appreciate the opportunity to tell the Court my story. I think it will help you understand my feelings about the Settlement Agreement in this case.

3. I was born in Lima, Peru in 1937.

4. I had two uncles, Shigezo Matsubayashi and Fukuichi Ikeda, who went to Peru as immigrants probably in the early 1920s, first as farm workers. It was a hard life, they said, and they soon ran away from the farm. They became very successful businessmen.

5. I had many cousins in Peru, 11 altogether, and had many wonderful picnics, birthday parties, and other gatherings.

6. The earliest vivid memory in my life is the day my father was arrested on January 7th, 1943. My mother took me to the police station where my father and many Japanese men were being loaded on trucks. I remember my father shouting something to us from the back of the truck as it left the compound, but I could not

hear what he was saying. Even at the age of less than six, I felt some invisible force was changing our lives. We did not know where my father went or why he was taken for several weeks until, one day, we received a letter from him saying he was in the United States.

7. Eight months after my father's disappearance, we were shipped to New Orleans through Panama Canal, and one hot summer afternoon in 1943, we joined my father at the Crystal City Concentration Camp in Western Texas. My Uncle Fukuichi Ikeda and his family had been arrested right after the war broke out, and they were sent to Japan as part of the prisoner exchange between the U.S. and Japan.

8. In those days, I remember my younger brother who was just a little over two and half years old then, was very sickly since his birth, and my mother feared he would not survive the ordeals.

9. These experiences really hit me strongly when I had my own little daughters. I often thought about how I would have felt if I were the one on that truck in that police station in Lima and being driven away to somewhere unknown and not to be able to see my wife and children for eight months. My father did say that they thought they were going to be taken away somewhere to be killed. My mother was very young, only 25 years old, and did not speak Spanish nor English.

10. Perhaps all these little stories are meaningless in the context of the war

where millions of people were killed and suffered. My father used to tell me that it was totally stupid for Japan to start the war, and many Japanese in the camp even felt guilty being Japanese. But it is also true that many did feel great injustice was done to them without knowing whom to blame. I am now older than my uncle Shigezo when he died, and I can imagine the despair he must have felt.

11. We all probably have different memories of life in the camp. The tall barb wire fence and watch towers with the shadows of guards were always present, and we were told never to touch the fence otherwise we will be shot by the guards. Beyond the fence was vast western Texas desert. I recall the black widows, Texas horn toads, scorpions, grasshoppers and large centipedes, and rattle snakes. There were torrential storms with most incredible lightening and loud thundering. The barracks were built by exposed two-by-four construction with only sheet rock enclosure, so these storms were quite frightening.

12. My youngest brother was born in the camp as well another cousin. It is ironic that these two -- who have no memory of the camp, or suffered the deprivations and trauma of being uprooted from Peru -- received redress. The law is about fairness, but it seems rather odd that the distinction is quite arbitrarily made for simplicity disregarding the real life of individuals.

13. As the war came to an end, going back to Peru was out of question for our

family. In December of 1945, we were deported to Japan. My uncle was not able to find work and died of cancer leaving eight children. None of the children was able to go to college. The older ones had to skip schooling, and go to work right away. Even today, the oldest son does not talk to the rest of family because of the division within the family. He went to work in a factory at the age of 16, and I am told that he is generally bitter about life. They had much stress and tension in the family because of heir experience.

14. In conclusion, I must say I have ambivalent feelings sitting here telling about my personal story. My value system is shaped partly by Japanese cultures which view negatively about telling one's personal matter in public. We do not want to sound as though we are complaining, and asking for something.

15. Of course, now we know more about the history. I called my mother in Japan two weeks ago. I asked her, "Now knowing the true story, do you think it was fair that the uncle Shigezo died in despair?" She said, "it was not, but what can one do?" I pointed out that our youngest brother who has no memory of prison camp was compensated \$20,000, and my mother did not receive anything. "Is it fair?" She said, "Well, life is not that simple. Whatever amount people think is fair is fine with me." Then she said "I will not be bitter even if I would not receive anything."

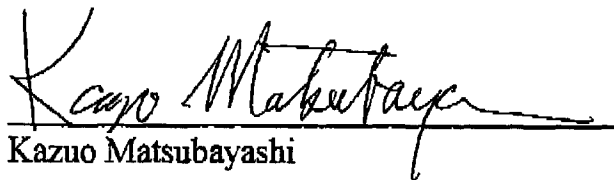
16. I am told there are some Peruvian Japanese who are demanding the full

redress as the other American Japanese received. I agree with them, although I also agree with my family and cousins who all accepted being part of the settlement agreement. I do believe the Peruvian Japanese were just as wrongfully treated as the American Japanese, and some suffered a great deal. A sense of justice and fairness is one critical American ideal that my father admired, and I learned a lot from him, he was a very fair person. I wonder what he would think if he knew why we were taken from Peru.

17. I also want to pass the sentiments from my cousin, Michie Miyagi, in Japan, who recently said in a Christmas card of my father and her parents that they "worked so hard under very difficult conditions to build a life, and yet their fortune was instantly and completely wiped out. They received a great blow both economically and mentally. I often think, if only we had not been sent to camp I cannot forgive it. We are justly entitled to receive a Presidential apology and due compensation."

18. Again I thank you for your patience and listening to my personal story. I do hope it adds to your understanding of this forgotten chapter of American history.

I declare under penalty of perjury that the foregoing is true and correct. Executed in Washington, D.C., on January 6, 1999.


Kazuo Matsubayashi

Declaration of Sadaharu Sakamoto

I, Sadaharu Sakamoto, hereby declare the following:

1. The matters stated herein are based on personal knowledge, or upon information and belief. If asked to testify, I could and would do so competently.
2. When I was 22 years old, I was abducted from Bolivia, where I had lived for nearly three years. I was living with my brother, with whom I operated a business. My brother, whose name was Jorge Yamane, passed away in Bolivia. Another brother of mine was also living in Bolivia at the time. I remember 140 to 150 other Japanese were living in La Paz, Bolivia.
3. I am 79 years old. I was born on October 29, 1921 in the Saitama Prefecture of Japan.
4. I am currently a citizen and resident of Japan. For reasons of privacy, I prefer not stating the location of my residence.
5. I wish to make the following statement in connection to the court hearing on the settlement of the class action lawsuit, Carmen Mochizuki, et al. v. United States of America (Case No. 894C).
6. I support the settlement. However, I do feel bad about it because I think we should receive the same amount, if not more, as everyone else imprisoned in the U.S. By explaining what happened to me, it will help the Court to understand why I have mixed feelings about the settlement agreement.
7. I had immigrated to Bolivia to join my brother who was operating an import, wholesale and retail business. I lived in Bolivia for over two and a half years. I was enjoying my life in Bolivia and considered it my home. Because Japanese in Bolivia were largely involved in the import business, the Bolivian government treated us well.
8. On April 13, 1943, I was returning home one evening from having coffee at a friend's house when I found two plainclothes police waiting for me. I was surprised. I knew the government had been arresting the Japanese who were company presidents, but since I wasn't one, I did not expect they would come after me. They told me to pack two suitcases, to go to the police station. I was taken to a nearby jail, where I joined 28 other men of Japanese ancestry, where we were imprisoned for 4 or 5 days. Many of the other men have already passed away. (I know that six of them are still alive and they told me they had applied for redress to the U.S. government.) We were not given a reason for our arrest. They just ordered us to come with them. No explanation was given. The police watched as we packed our belongings.
9. We were then taken to an airport in La Paz where we were herded onto DC3 airplanes marked with American symbols. The windows of the planes were boarded up and we were not told where we were being taken. We were guarded by armed U.S. military personnel who were Mexican Americans who spoke Spanish, but could not tell us why people were being arrested and transported.
10. We landed in Peru where we spent one night. We were then flown to the Panama Canal Zone where we were incarcerated for what seemed like two months.
11. During those two months, we were put into a camp behind barbed wire. We were forced to cut grass and bushes with machetes in tremendous heat. It was oppressive and unbearable. We were always being watched by guards who had their guns pointed at us. It was the most eerie and frightening experience of my life. I remember that the Germans cooked the food, and got to sleep in single beds, not bunks as we did.
12. From the Panama Canal Zone, we were put on a U.S. destroyer and shipped without explanation, along with wives and children from Peru, to a New Orleans port, via an U.S.

military base in the Caribbean. In New Orleans, we were made to take our clothes off, and we were sprayed with what I know understand was DDT. The U.S. authorities confiscated my passport in New Orleans or before. From there, we were placed on trains and taken to a concentration camp in Kennedy, Texas.

13. I lived in Kennedy for three or four months. There were other Latin Americans of Japanese descent who had suffered similar experiences. We were all single men. We found out later that the men with families were sent to a concentration camp in Crystal City, Texas, where they joined other family members. Kennedy was also a place of oppressive heat.

14. From Kennedy, I was sent to a concentration camp in Santa Fe, New Mexico, where I stayed for just over one year, until the end of war. I remember it was very hot there. There were barracks with about 50 to 60 beds. The steel bed frames got very hot.

15. I was able to stay with an acquaintance in Seattle, Washington, until late November of 1945 when I went to Japan. I was never able to return to Bolivia to live.

16. Because of all this, I feel bad about not being paid the full redress. We have suffered so much, having been taken from our country, lost the business my brothers and I had worked hard to establish, and never able to return. I don't understand why we were taken.

17. However, I still support the settlement, since I understand that it is the best we can hope for. The reality of the matter is that we are aging rapidly and, having had many friends pass away already, I feel the need for a speedy resolution to this injustice.

I swear under the penalty of perjury of the laws of the United States that the foregoing is true and correct, and that this declaration was executed on December 20, 1998 at Setagaya District, Japan and translated to English in Los Angeles, California.


Sadaharu Sakamoto Jan. 6 1999


Ayako Hagihara, translator

DECLARATION OF ROSE A. NISHIMURA**I, Rose Akiko Nishimura, declare:**

If called as a witness, I could and would testify as follows:

1. I am now a citizen of the United States. I was born in Lima, Peru. My parents had a successful business importing textiles and manufacturing dress shirts. My grandparents owned a department store in Callao, Peru and during World War II they were among the first Japanese Peruvians to be taken hostage. They were used in one of the exchanges for American civilians trapped in Asia and sent to Japanese controlled territories. We never got to see them again. I have always felt terrible about that.

2. After the first Japanese Peruvian hostages were placed on a U.S. Army transport and shipped to an unknown destination, some of the Japanese Peruvian men went into hiding, including our father, whenever a U.S. transport arrived in the harbor. The police came looking for him several times and after not finding him, they arrested my mother and placed her in jail to force my father out of hiding. Our oldest sister, who was 11 years old, went with her because she did not want our mother to be alone. When word of this reached my father, he gave himself up.

3. We were then put on a U.S. Army transport called Cuba. We were guarded by U.S. military personnel with rifles, machine guns and

whips. I was only nine years old at the time. It was so scary.

Passports were confiscated. The women and children were put in a small cabin. There were 6 of us: our mother and 5 children. Another family of 4 was placed in the same cabin. So many of us had to sleep on the floor.

The men and the older boys, 13 years and older, were put down below and were only allowed to go on deck twice a day for 10 minutes. During those 10 minutes, the women and children had to remain in their cabins. It caused me so much anxiety that our families were separated and were unable to see each other during the entire trip, which took 21 days.

4. When we arrived in New Orleans, the women and children were led off the ship first and marched to a warehouse. We were ordered to strip and stand in line naked. We were then sprayed in mass with insecticide. I was humiliated having to take my clothes off in front of boys my age. I also realize how awful this must have been for my mother, whose modesty was violated by her having to be naked in front of strangers, including boys. The men and older boys went through the same procedure separately.

5. We were put on a train and for the first time the families were finally reunited. It took two days for us to arrive at Crystal City, Texas. One of my sisters believed that we were going to be killed at the end of the train ride.

6. They put us in a camp with barbed wire fences and we were guarded by U.S. soldiers with machine guns in guard towers. It was scary because we were told if we got near the fences we would be shot. They put 8 of us in 2 rooms of a 3 room barrack.

7. In the camp our parents sent us to Japanese school because there were only Japanese and English schools. There were no Spanish schools, and English was rarely used in Peru, in those days.

8. After 2 ½ years in Crystal City there were reports that the camp was going to be closed. We wanted to return to Peru but the Peruvian⁶ government would not allow us. The only way the U.S. would allow us to get out of the prison camp was to be paroled as "illegal aliens" to Seabrook Farms in N.J. There my father worked packaging frozen foods. But the amount he received was not enough to provide for our family of six and my mother was pregnant. So my oldest brother and sister, instead of going to school, had to go to work. We had difficulty communicating with the other workers because we did not speak English.

9. After working 2 ½ years in Seabrook, waiting for the chance to return to our homeland in Peru, my father finally gave up all hope of returning there. So we moved to Chicago in March, 1949.

10. Three of my brothers were drafted into and served in the U.S.

Army, even though they were considered "illegal aliens." In 1953, my oldest brother, Art Shibayama, while serving in Europe, his warrant officer tried to get him his United States citizenship. He was denied because the government claimed he had not entered the United States legally. Upon returning to the U.S., he was faced with deportation proceedings. Art was told by INS officials that he should go to Canada and reenter in order to get legal entry. He followed those instructions, and as a result, he got legal residency, but not retroactive, so he was denied redress. Ironically, one of my sisters did not want to take the chance of leaving the U.S. and not be able to get back in. She ended up getting residency, and, under the 1988 law, she received redress.

11. We did not want to come to this land. We were forcibly brought here by the United States government on a United States military transport and put in a barbed wire enclosed camp administered by the Immigration & Naturalization Service of the United States. So how can it be said we were illegal aliens?

12. Though the amount proposed by the settlement is not fair, I support it because, hopefully, at least some of the older persons will receive a little recognition of the injustice that had been inflicted upon us. But I don't understand why we are receiving less than the Japanese Americans. We

suffered equally as they did. Indeed, when you think about it, perhaps even more because we were snatched from our own country and brought to a strange land whose language we did not know. Deciding whether to accept the settlement has been so difficult that it divided our family; while I and my sister chose to accept it, my brothers have chosen not to. However, we support each others' decisions.

13. I am very worried about the funds running out so that many or all of us Japanese Latin Americans may not even receive the redress payment. I was disturbed to hear that the government had not invested the money as the law required. I hope the U.S. government will correct its mistake.

14. I find it very difficult to talk about this experience. When the lawyers asked me to come to Washington to testify, I had to decline because I knew I would break down and cry, and be unable to tell the story. I hope the judge will forgive my absence.

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

Executed at Saratoga, California on January 6, 1999.

Rose Akiho Nishimura
Rose: ARIKO Nishimura

Declaration of Grace Shimizu

I, Grace Shimizu, declare that if called to testify to the following, I could and would do so competently, as follows:

1. I am the daughter of a Japanese Peruvian internee, Susumu Shimizu, who at age 92 years is one of the oldest survivors of the US-initiated program of forcible deportation of civilians from their homes in Latin America and incarceration in internment camps in Panama and the United States for the purpose of hostage exchange during World War II.
2. I am also the Coordinator of the Japanese Peruvian Oral History Project, which is a non-profit organization founded by internees and their families to preserve family histories and to educate the public about this little known chapter with the hopes that such violations of civil and human rights not be repeated by any government during times of peace or war. Approximately 80% of the 2,264 Japanese Latin Americans who were forcibly deported from their home countries in Latin America and incarcerated in the United States during WWII were Japanese Peruvians.
3. Since 1991, our Project has conducted and collected over 50 oral history interviews in the United States, Japan, Okinawa and Peru. We have been able to not only preserve our family experiences, but also to document first hand accounts which have been able to verify and elaborate on what little has been researched about this episode. Due to the courage and generosity of these internees, we continue to learn more about the lengths to which governments went to use civilians as human trade during time of war, how lives were changed forever, and how years later the effects of the traumatic experience are still being felt and passed onto later generations. Similar to the Japanese American experience, we are also gaining insight into how the struggle for truth and justice has begun a healing process for our families. We are bringing to light and giving a human face to a part of history, which might have been suppressed by the US government, had it not been for the victims themselves speaking out.

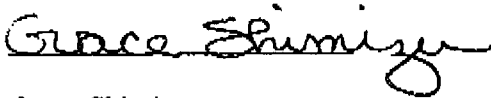
4. After the Settlement Agreement was signed, I traveled to six cities in three countries in about eighteen days, and discussed the provisions of the Settlement Agreement with over 100 Japanese Latin American internees and their families. I would like to share their responses, and how difficult it was for many of them to make the decision whether to accept or reject the *Mochizuki* Settlement Agreement.
5. For many internees, it meant remembering personal and family experiences, opening up old wounds, and sometimes reliving the terror, fear, instability and poverty. One internee recalled the terrible conditions in the US military camp in Panama where he was forced to perform hard labor in intensely hot weather in violation of the Geneva Convention and wiping up the blood of another internee who had been shot by guards. Another internee, who was deported to Japan after the end of the war, recounted facing starvation conditions and pulling weeds for her children to eat so that there would be something in their stomachs and later having to bury her youngest child whom had died of malnutrition.
6. For some internees it was the first time in decades to confront their past. And for others they may not have ever verbalized their feelings or shared their memories, even with their own family members. For some it meant finding the courage to make themselves visible to the governments which had violated them and to communities where they had experienced prejudice, discrimination and violence in the past. For others they grappled with the realization that they have been victims of war crimes.
7. For many internees, it meant coming to terms with one's own hopes and expectations and the reality of one's treatment in the political and legal system. And some also expressed the weight of responsibility in realizing that any decision affected not only one's self or family, but also has consequences for other internees and their families and could set a precedent for redress for other people around the world.

8. Among Japanese Latin American internees and their families, there are mixed emotions and reactions regarding the Settlement Agreement. No internee expressed unqualified satisfaction with the Settlement nor characterized it as a "triumph for justice." Most felt that it is for each internee to decide from his/her own heart and that such decisions would be respected and supported.
9. The majority of internees I spoke with voiced that the Settlement was a "bittersweet victory" and "the best we could get." Some believed the apology is sincere and a major achievement. Some had no or little expectation of redress and did not believe that the same government that abused them would ever acknowledge or apologize. Thus, some considered that getting the US government to apologize, let alone the promise of possible compensation payments, was a great surprise and achievement. One said she felt that honor and dignity has been restored.
10. Others felt that after a hard struggle this agreement was the best this US government would ever agree to. They underscored the significance of the apology and considered the usage of particular words to be significant: "profound regret" that the US government denied "fundamental liberties" and committed "a grave injustice" due to "racial prejudice and wartime hysteria." They weighed the apology and promise of \$5,000 compensation payments against an uncertain lawsuit, which could take years to resolve and in the meantime many internees, may pass away. Many of these internees believed the repeated assertions by US government officials that there would be sufficient funding in the redress fund for all Japanese Latin Americans.
11. A minority of the internees, particularly living today in Peru, with whom I spoke to about the Settlement Agreement felt it was an insulting gesture and does not restore any honor or dignity in memory of those passed away or those still alive. These internees recognized that the Settlement does not include Japanese Latin Americans under the Civil Liberties Act of 1988 and does not give them equal treatment with Japanese Americans.

12. Some criticized the content of the apology letter because it does not make any reference to "Japanese" or "Latin America," is perfunctory and generic in tone, and does not refer to the scope and severity of human rights violations committed. Others expressed the belief that the apology is insincere because the Settlement did not give enough time for internees living throughout the world to be notified and then apply for redress. Others objected to the lack of guarantee of compensation to all the internees. Some felt insulted that Japanese Latin Americans must wait until all Japanese Americans have been compensated and would only be granted what they viewed as "left-over" monies.
13. Some also stated that it is unfair that redress is denied to approximately 7 children born US citizens in the internment camp after June 30, 1946 and the many internees who died before August 10, 1988. Many also believe that given all the problems and concerns with the provisions of the Settlement, as expressed above, this is a dangerous precedent for redress of clear human rights violations committed by governments.
14. Japanese Latin American internees are now being informed that there will very likely be insufficient redress funds for both Japanese Americans and Japanese Latin Americans due to the government's failure to invest the redress funds as required under the Civil Liberties Act of 1988. Some internees have questioned why the Office of Redress Administration had made repeated assurances at community meetings that there would be sufficient funds, and then recently announced the likelihood that there will be insufficient funds to pay any of the Japanese Latin American internees. Some internees do not understand how the US government could have failed to invest the redress funds when it was required by law. Some internees continue to assert belief in the President's promise to help secure additional funding and have faith in the President and US Congress. Other internees have expressed disgust and are cynical about the US government's redress efforts.

15. In conclusion, the majority of internees have chosen to accept the *Mochizuki* Settlement, based on the initial assurances of sufficient redress funds and the belief that the US president and Congress would secure additional funding if necessary. Therefore, many internees feel it is better to compromise and get something as soon as possible rather than to get nothing. Most internees expressed their intention to accept the Settlement despite concerns. Those internees who believe that the risk of receiving nothing is better than accepting an unjust Agreement have largely "opted out." All internees expressed strong support for continued efforts which would ensure that all Japanese Latin American internees receive equal treatment with Japanese Americans, including redress payments of \$20,000 as Japanese Americans have been granted.

I swear under penalty of perjury that the foregoing is true and correct, and that this declaration was executed at Washington, D.C. on January 7, 1999.



Grace Shimizu

Background

This notice is to advise you that a proposed settlement agreement has been reached in this case, Mochizuki, et al. v. United States, No. 97-294C. If you meet the requirements stated in the first paragraph of this notice, your legal rights may be affected by this settlement agreement.

On May 20, 1997, five persons of Japanese ancestry (referred to in this Notice as "plaintiffs") who were living in Latin America before World War II and who were interned in the United States during the war filed a proposed class action Complaint in the United States Court of Federal Claims seeking payments under the Civil Liberties Act of 1988. The Civil Liberties Act of 1988 provides for payments of \$20,000 to each eligible individual.

Eligibility criteria:

Among other things, the Act requires that, to be eligible, an individual must have been a United States citizen or permanent resident alien during the period from December 7, 1941 to June 30, 1946. Also, an individual must not have relocated during the period December 7, 1941 to September 2, 1945 to a country with which the United States was at war. Plaintiffs claimed that these provisions should not be applied to prevent them from receiving payments under the Civil Liberties Act of 1988. The United States (referred to in this Notice as "defendant") does not agree that plaintiffs are eligible for payments. The Court has not yet made any decision on plaintiffs' claims.

*USC OR LPR
12/7/1941 -
6/30/1946
Not deported*

To be eligible, an individual also must have been alive on August 10, 1988. If an eligible individual died after that date, his or her spouse, children or parents may in certain cases receive payment.

*Living internee
OR
Immed. relative*

The Civil Liberties Act of 1988 established a fund, called the Civil Liberties Public Education Fund, to make payments to eligible individuals. The Civil Liberties Public Education Fund terminates when the funds are depleted or on August 10, 1998, whichever occurs earlier.

Proposed Settlement

The plaintiffs have entered into a settlement agreement with defendant, and the settlement agreement has been submitted to the United States Court of Federal Claims for approval. The Court has preliminarily ruled that this case may be maintained as a class action. The class includes those persons described in the first paragraph of this Notice, who will be referred to in this Notice as "class members." In considering whether to approve the settlement, the Court must decide whether the settlement is fair, reasonable and adequate. This notice describes the main terms of the proposed settlement. It also gives the options of individuals who may be affected by the settlement, and tells how to get more information on the settlement.

The main terms of the proposed settlement are:

- * Class members who were interned and who are living at the time of payment are entitled to payments of \$5,000, to the extent that funds are available in the Civil Liberties Public Education Fund.

Living Intertnee

- * Class members who are spouses, children or parents of former internees who were alive on August 10, 1988, but who are now deceased, may be entitled to a payment or to share in a payment of \$5,000, to the extent that funds are available in the Civil Liberties Public Education Fund. *Immed relative of deceased internee*
- * Class members are entitled to a letter of apology from the President of the United States.
- * Those class members who do not file a request to be excluded from the class are bound by the settlement, and they release the United States from any claims they might have brought in the lawsuit other than claims based on the terms of the settlement.
- * A class member's acceptance of payment under the Settlement Agreement will be in full satisfaction of all claims against the United States relating to his or her internment (or, in the case of an heir to an individual who was interned, the internment of the class member's spouse, parent or child).

If you would like a copy of the proposed settlement or more information, please write, fax or call the plaintiffs' lawyer, Robin S. Toma, ATTN: Mochizuki Lawyers, c/o Susan Simpson, ACLU, 1616 Beverly Blvd., Los Angeles, CA 90026, Fax: (213) 250-3919, Telephone: (213) 974-7640 (English and Spanish), or call Ayako Hagihara at (310) 344-1893 (Japanese).

Your Options

If you meet the qualifications stated in the first paragraph of this Notice, you have the following options:

- 1) You may remain a member of the class. If you wish to remain a class member and participate in any final settlement, you should complete the enclosed INFORMATION FORM to ensure that the parties and the Court can locate you. You should complete this form and send it to the following address:

United States Department of Justice
Civil Rights Division
Office of Redress Administration
ATTENTION: Latin American Claims
P.O. Box 66260
Washington, D.C. 20035-6260.

Your INFORMATION FORM should be postmarked by August 10, 1998. If you complete the INFORMATION FORM in English, it will greatly assist in keeping

records on the information you provide.

If you wish to remain a class member, DO NOT complete the attached REQUEST FOR EXCLUSION form. You will be included in the class, and any final settlement and judgment in this case will be binding on you if you decide not to be excluded.

The following attorneys are currently representing the plaintiffs and class members:

Attorney of Record: Robin S. Toma
Of Counsel: Paul L. Mills, Fred Okrand, Mark D. Rosenbaum, Paul L. Hoffman, Manjusha P. Kulkarni.

If you wish, you may appear in this action through your own attorney. Your attorney must file a notice of entry of appearance in English by **September 10, 1998** with the Clerk, United States Court of Federal Claims, 717 Madison Place, N.W., Washington, D.C., 20005, and send a copy to the attorneys of record for the plaintiffs and defendant whose addresses are given at the end of this notice.

If you wish to remain a class member and you object to the proposed settlement agreement, you may present your objections in the manner provided for in the next section of this notice, entitled "HEARING ON PROPOSED SETTLEMENT."

2) You may request exclusion from the class. If you wish to be excluded from the class, you must complete the attached REQUEST FOR EXCLUSION FORM and mail it to the address provided below so that it is postmarked on or before **September 10, 1998**.

United States Department of Justice
Civil Rights Division
Office of Redress Administration
ATTENTION: Latin American Claims
P.O. Box 66260
Washington, D.C. 20035-6260

If you complete the REQUEST FOR EXCLUSION FORM in English, it will greatly assist in keeping records on your request.

If you choose to be excluded from the class, you will not be included in any settlement, disposition or judgment in this case. If you choose to be excluded from the class, you may have the right to bring your own lawsuit against the defendant. Before you file a request to be excluded from the class, you may wish to consult with an attorney of your choice or with attorney for the class, Paul Mills (in English or Spanish) by writing to: Paul Mills, Esq., 3435 Wilshire Blvd., Suite 2900, Los Angeles, CA 90010, or by faxing Paul Mills at (310) 837-3399.

Hearing on the Proposed Settlement

Chief Judge Loren A. Smith will hold a hearing on the proposed settlement on the 17th day of November, 1998, at 3:00 p.m. EST, in Courtroom 4, United States Court of Federal Claims, 717 Madison Place, N.W., Washington, D.C., 20005. The purpose of this hearing is to decide if the settlement is fair and reasonable. Any class member who does not request to be excluded from the class and who wishes to object to the proposed settlement must file written comments by October 26, 1998. Your comments must be in English and must be received by the Court by **October 26, 1998**. Your written comments must include a statement of why you object to the settlement and why you believe the settlement applies to you. Written objections must be sent to all three of the following addresses:

Honorable Loren A. Smith
Chief Judge
U.S. Court of Federal Claims
717 Madison Place, N.W.
Washington, D.C. 20005

Kathryn Ray - Atty. of Record for Defendant
U.S. Department of Justice
901 E Street, N.W. Rm 936
P.O. Box 883
Washington, D.C. 20044

Robin S. Toma - Atty. of Record for Plaintiffs
c/o Susan Simpson
1616 Beverly Blvd.
Los Angeles, CA 90026

If you file written objections on time, you or your attorney may also appear at the hearing to object to the settlement. You are not required to appear at the hearing for the Court to consider your objections.

Date:

June 12, 1998
Clerk

United States Court of Federal Claims

INFORMATION FORM

1. NAME (please print clearly): _____

2. CURRENT HOME ADDRESS: _____

3. CURRENT HOME PHONE NUMBER: _____

4. NUMBER WHERE YOU CAN BE REACHED DURING THE DAY (if different from

above): _____

If you wish to be included in the class settlement, you should complete this form, send it to the following address and make sure it is postmarked by August 10, 1998.

United States Department of Justice
Civil Rights Division
Office of Redress Administration
ATTENTION: Latin American Claims
P.O. Box 66260
Washington, D.C. 20035-6260.

REQUEST FOR EXCLUSION

The undersigned does not wish to be a member of the plaintiff class in Mochizuki, et al. v. United States, No. 97-294C, pending in the United States Court of Federal Claims.

Date: _____

(Name)

(Address)

(Signature)

If you wish to exclude yourself from the class, this completed form must be postmarked by **September 10, 1998** and sent to the following address:

United States Department of Justice
Civil Rights Division
Office of Redress Administration
ATTENTION: Latin American Claims
P.O. Box 66260
Washington, D.C. 20035-6260.

IN THE UNITED STATES COURT OF FEDERAL CLAIMS

CARMEN MOCHIZUKI, et al.,

Plaintiffs,

v.

THE UNITED STATES,

Defendant.

No. 97-294C
(Chief Judge Smith)

SETTLEMENT AGREEMENT

1. Carmen Mochizuki, Alicia Nishimoto, Koshio Henry Shima, Sumiko Tsuboi and Masaji Sugimaru (the "named plaintiffs") have brought an action against the United States in the United States Court of Federal Claims, No. 97-294C, under the Civil Liberties Act of 1988 (the "Act"), 50 U.S.C. app. §§ 1989b¹ - 1989b-9, and under the Equal Protection guarantee of the Fifth Amendment to the United States Constitution, on behalf of themselves and similarly situated individuals. The plaintiffs' lawsuit alleges that during World War II, 2,264 persons of Japanese ancestry were, without legal justification or due process, deported from their homes in Latin American countries, and imprisoned in internment camps in the United States, a central purpose of such conduct being, according to plaintiffs' allegations, to exchange them for United States civilian prisoners held in Japan-controlled territories. Plaintiffs sought the same treatment for Latin American Japanese former internees under the Act as is accorded to Japanese American former internees. Defendant has denied the claims asserted against it in the lawsuit, taking the position that plaintiffs are not eligible individuals under the

Act. Additionally, defendant's position is that plaintiffs' equal protection claim fails to state a cause of action. Defendant has moved to dismiss plaintiffs' claims, and plaintiffs have opposed that motion.

2. In order to avoid continued litigation, plaintiffs and defendant have agreed to settle their dispute in good faith and in accordance with the terms of this Settlement Agreement.

3. Promptly after the execution of this Settlement Agreement, the parties shall submit it to the Court for consideration, along with the Joint Motion for Preliminary Approval of Settlement Agreement and for Entry of Judgment attached as Exhibit A; a proposed Order Granting Preliminary Approval of Settlement Agreement (attached as Exhibit 4 to Exhibit A); and a proposed Order granting final approval of the Settlement Agreement, entering final judgment and dismissing this action with prejudice (attached as Exhibit 5 to Exhibit A). The parties further agree to take all steps as may reasonably be requested by the Court, and will otherwise use their respective best efforts to consummate this Settlement Agreement and obtain the entry of a final judgment dismissing this action with prejudice. The Court shall retain jurisdiction of this action for a period of 180 days after entry of the final order and judgment solely for the purpose of adjudicating any claim of a material breach of the Settlement Agreement.

4. Subject to the Court's approval of an Order substantively in the form of the proposed Order Granting

Preliminary Approval of Settlement Agreement attached as Exhibit 4 to Exhibit A and entry of final judgment substantively in the form of the proposed Order attached as Exhibit 5 to Exhibit A, the parties stipulate, pursuant to RCFC 23, to a plaintiff class defined as:

Persons who have not previously received payments under the Civil Liberties Act of 1988 from the Office of Redress Administration, United States Department of Justice, and who are (a) persons of Japanese ancestry who were living in Latin America before World War II and who were interned in the United States at any time during the period from December 7, 1941, to June 30, 1946; OR (b) persons who are the spouses, children or parents of persons who died after August 10, 1988, and who met the qualifications of (a) above.

5. Defendant's stipulation to certification of this class is contingent upon the settlement of this action and is entered into solely for the purpose of settlement. Should the Court refuse to certify the class or refuse to approve the Settlement Agreement, or should any other events prevent this Settlement Agreement from being finalized, defendant reserves the right to contest class certification in any subsequent stage of this litigation.

6. After the Court's entry of an Order substantively in the form of the proposed Order Granting Preliminary Approval of Settlement Agreement attached as Exhibit 4 to Exhibit A and within twenty-five days of the Clerk's delivery to defendant's counsel of the Notice of Proposed Settlement of Lawsuit attached as Exhibit 1 to Exhibit A, defendant shall cause this notice to be sent by first class mail, postage prepaid, to the last known

addresses of all potential class members who have applied for redress payments to the Office of Redress Administration ("ORA"). The Notice shall be sent to each potential class member in the language in which the potential class member first communicated in writing with ORA. ORA shall keep a record of the names and addresses of potential class members to whom the notice provided for in this paragraph is sent.

7. Within twenty-five days after the Court's entry of an Order substantively in the form of the proposed Order Granting Preliminary Approval of Settlement Agreement attached as Exhibit 4 to Exhibit A, defendant shall cause to be published at its own expense:

a. A Notice of Proposed Settlement in Class Action Lawsuit Involving Latin American Japanese in the form of the notice attached as Exhibit 2 to Exhibit A in the Legal Notices Section (or other appropriate section) of El Comercio, Lima, Peru;

b. A Notice of Proposed Settlement in Class Action Lawsuit Involving Latin American Japanese in the form of the notice attached as Exhibit 3 to Exhibit A in the Legal Notices Section (or other appropriate section) of Yomiuri Shinbun, Tokyo, Japan.

8. Not later than twenty-one days after receiving a claim, defendant shall cause to be sent by first class mail the notice attached as Exhibit 2 to Exhibit A to each claimant who responds to the Notice provided for in paragraph 7(b) above and who provides his or her name and address.

9. Within twenty days after the Court's entry of an Order

substantively in the form of the proposed Order Granting Preliminary Approval of Settlement Agreement attached as Exhibit 4 to Exhibit A, defendant shall cause the Notice attached as Exhibit 2 to Exhibit A to be posted on ORA's Internet site. Defendant shall provide the Voluntary Information Form in English on ORA's Internet site in a format that will allow downloading of the form.

10. The parties shall take reasonable steps timely to inform the media of this Settlement Agreement and how potential class members can obtain more information about the settlement.

11. Class members may exclude themselves from the class as provided in the notices attached as Exhibits 1 and 2 to Exhibit A. On or before November 2, 1998, ORA shall provide the Court and plaintiffs' attorneys with a list of names and, where provided to ORA, addresses of persons who exclude themselves from the class in statements received on or before October 26, 1998. On or before November 9, 1998, ORA shall provide the type of list as described in the preceding sentence for persons who exclude themselves from the class in statements received from October 27 to November 2, 1998.

12. After the Court has entered an Order substantively in the form of the proposed Order Granting Preliminary Approval of Settlement Agreement and not earlier than November 9, 1998, or later than November 20, 1998, the parties shall participate in a fairness hearing as scheduled by the Court.

13. Within 60 days after the entry of an Order

substantively in the form of the proposed Order granting final approval of the Settlement Agreement, entering final judgment and dismissing this action with prejudice, attached as Exhibit 5 to Exhibit A, and to the extent that funds are available in the Civil Liberties Public Education Fund established under 50 U.S.C. app. § 1989b-3, defendant shall take the actions described below with respect to class members who have applied to ORA for redress payments on or before August 10, 1998 (the latest sunset date for the program established under the Act), who have not requested exclusion from the class, and who can be located at the time of payment.

(a) Defendant shall make payments of \$5,000 to the named plaintiffs and to each former internee who is living at the time of payment.

(b) In the case of a former internee who was living on August 10, 1988, but who is deceased at the time of payment, defendant shall make a single payment of \$5000 to any class member who is the spouse, child or parent of such internee and who is living at the time of payment in accordance with the provisions of 50 U.S.C. app. § 1989b-4(a)(8) and 28 C.F.R. §§ 74.13, 74.14. Should there be more than one surviving child or parent entitled to payment, payment of the \$5000 shall be made on a pro rata basis as provided in 50 U.S.C. app. § 1989(a)(8).

14. Should the Civil Liberties Public Education Fund have insufficient funds to make payments to all persons determined to be entitled to payment under this Settlement Agreement, payments

shall be made in the order of date of birth with the oldest former internee as of August 10, 1988, receiving payment first. In the case of former internees who were living on August 10, 1988, but who are deceased at the time of payment, the date of birth of the former internee shall control with respect to the priority of payments to spouses, children or parents of the internee under paragraph 13(b) of this Settlement Agreement.

15. To the extent that funds are available in the Civil Liberties Public Education Fund on August 10, 1998, to make the payments provided for in this Settlement Agreement, the United States Department of Justice will take reasonable steps to reserve such funds, consistent with 31 U.S.C. § 1502(b). Nothing in this paragraph shall be construed to require that all funds that exist in the Civil Liberties Public Education Fund as of August 10, 1998, be paid to class members.

16. Defendant shall send to each class member who applies to ORA for payment on or before August 10, 1998, who does not request exclusion from the class, and who can be located a letter from the President of the United States in the form attached hereto as Exhibit B.

17. A claimant shall be considered to have applied to ORA for payment on or before August 10, 1998, if the claim is postmarked on or before August 10, 1998, and received by ORA not later than September 4, 1998. Should a postmark be illegible or missing, ORA may require the claimant to submit a statement that the mailing took place on or before August 10, 1998, with a

declaration that "I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on (date)."

18. All parties to this Settlement Agreement agree to and will bear all of their own attorneys' fees, costs and expenses incurred in this action. Any and all potential claims and causes of action of all parties to this Settlement Agreement and their counsel for attorneys' fees, expenses or costs under the Equal Access to Justice Act, 29 U.S.C. § 2412, or any other statute, law, rule, or regulation, shall be deemed to be fully released, satisfied, settled, extinguished, and disposed of, with prejudice, upon the entry of an order substantively in the form of the proposed Order attached as Exhibit 5 to Exhibit A.

19. The parties' obligations under this Settlement Agreement are contingent on and shall be of no force or effect in the absence of the Court's approval of an Order substantively in the form of the proposed Order Granting Preliminary Approval of Settlement Agreement attached as Exhibit 4 to Exhibit A and entry of judgment substantively in the form of the proposed Order attached as Exhibit 5 to Exhibit A. This Settlement Agreement shall become effective on the day after entry of judgment substantively in the form of the proposed Order attached as Exhibit 5 to Exhibit A; provided, however, that this Settlement Agreement shall not be effective if an appeal of the Court's final approval of the Settlement Agreement or final judgment is filed, in which event the Settlement Agreement shall be effective

only upon approval of the Settlement Agreement on appeal or the expiration of all appeal periods subsequent thereto. If this Settlement Agreement is finally disapproved by any court, or in the event that it fails to become effective for any reason whatsoever, or is finally reversed or modified on appeal, this Settlement Agreement shall be null and void, shall have no further force and effect, and shall not be used in this action or in any other action or proceeding, and this Settlement Agreement and all negotiations, proceedings and statements made in connection herewith shall be without prejudice to any person or party, shall not be deemed or construed to be an admission by any party of any fact, matter or proposition, and shall not be used in any manner or for any purpose in any subsequent proceeding in this action or in any other action, court or administrative proceeding, except for the purpose of restoring the procedural posture of this action to the status quo ante.

20. The terms of this Settlement Agreement constitute the entire agreement of the parties, and no prior statement, representation, agreement or understanding, oral or written, which is not contained herein, shall have any force or effect. This Settlement Agreement shall be deemed to have been drafted jointly by all parties and no alleged ambiguity shall be construed against any party as the drafter.

21. This agreement shall not operate as an admission on the part of any party for any purpose. The terms of this Settlement Agreement and the exhibits to this Settlement Agreement may not


be offered, taken, construed, or introduced as evidence of liability or as an admission or concession by any party, either in this action or in any subsequent proceeding of any nature.

22. Class members who do not elect exclusion from the class and their representatives, heirs, successors and assigns forever release and discharge defendant from any and all claims and causes of action which have been, or could have been, asserted in the above-captioned action.


23. A class member's acceptance of payment under this Settlement Agreement shall be in full satisfaction of any and all claims against the United States relating to the internment of the class member (or, in the case of an heir to an individual who was interned, the internment of the class member's spouse, parent or child) during the period beginning on December 7, 1941, and ending on June 30, 1946. Nothing in this agreement shall be

deemed to override any subsequent legislative enactment designed to compensate class members.


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Date: June 10, 1998


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(213) 381-7793

Date: June 10, 1998


FRED OKRAND
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(213) 977-9500

Date: June 10, 1998

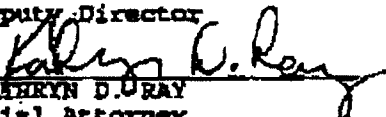
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Date: June 10, 1998

Redress Fight Continue in Court

The fight for justice continues not only in legislation but in litigation as well. Sixty years after the war, the U.S. government is still fighting Japanese American (JA) and Japanese Latin American (JLA) internees in court. The U.S. government continues to deny its own war crime committed against JLAs, and does not fully acknowledge its civil and human rights violations committed against people of Japanese ancestry during the War. The government has also used technicalities to fight internees in court and to keep the U.S. from being held accountable for its own wrongdoing. Let's urge the U.S. government to stop the costly and lengthy court battles and to support a proper apology and redress for JAs and JLAs!

Mochizuki v. USA

A settlement agreement was reached, providing to eligible Japanese Latin American internees an apology letter and \$5000 compensation (1/4 of the amount awarded to Japanese Americans) and permitting internees to seek legislation for equitable redress. 17 internees rejected the settlement with the intent of continuing litigation.

Kato, Yano, and Ogura v. USA **Dismissed by U.S. Court of Appeals**

Following a hearing last December 2000, the Ninth Circuit Court of Appeals in January 2001 upheld the lower court's dismissal of *Kato, Yano, and Ogura v. USA*. The plaintiffs in this consolidated redress case, are 6 claimants of Japanese descent, born in three different countries (the U.S. Japan, and Peru), and who were all wrongly imprisoned in the U.S. during World War II. The 6 plaintiffs charged the U.S. with a continuing policy of discrimination, for violating their fundamental civil rights during the War and then later denying them an apology and redress, but the Court ruled that all legal action was barred by the statute of limitations. Pursuant to the court's argument, the internees had one year after release from prison camp to file a lawsuit against the U.S. government

The internees' subsequent petition for en banc review was denied by the Ninth Circuit Court and an appeal of this decision was made to the U.S. Supreme Court. In 2002, the US Supreme Court refused to consider this case; dismissal by the lower court stands.

Henry Shima Denied Hearing by Ninth Circuit Court of Appeals

Koshio Henry Shima, 75, is a U.S. citizen of Japanese descent, who was abducted from his home in Peru at the age of 18, put to forced labor in the Panama Canal Zone, and then imprisoned in the U.S. during WWII, without a hearing, for the duration of the war. In 2000, Judge J. Spencer Letts of the U.S. Central District Court of Los Angeles, had dismissed Shima's suit for damages, without allowing oral argument.

On April 4, 2001, the Ninth Circuit U.S. Court of Appeals considered the case of *Shima v. USA*, refusing to grant Shima oral argument before the court (thereby marking the third time that Shima has been denied a court hearing by the U.S. government). On May 2, 2001, the Ninth Circuit Court of Appeals dismissed the case of *Shima v USA* in an unpublished decision. The appellate court ruled that the plaintiff, Koshio

Henry Shima, had no grounds to bring claims against the U.S. due to the statute of limitations, and upheld the lower court's dismissal of the case. An appeal was not made to the U.S. Supreme Court. Henry Shima passed away in January, 2005.

U.S. Court of Appeals Dismisses *NCRR & Joe Suzuki v. USA*

On February 15, 2001, the Ninth Circuit upheld the dismissal of *National Coalition for Redress/Reparations (NCRR) & Joe Suzuki v. USA*, a class action lawsuit filed in 1998 that charged the government with malfeasance for failure to invest the \$1.65 billion redress fund as required under the Civil Liberties Act of 1988 (CLA). NCRR sought the recovery of an estimated \$200 million in lost interest to the Civil Liberties Public Education Fund for purposes of redress compensation and educational programming. In 1999, U.S. District Court Judge Charles Legge granted the government's motion to dismiss, ruling that NCRR did not have standing to challenge the government's failure to invest the money in the Fund. NCRR appealed this decision, but the dismissal was upheld by the Ninth Circuit Court of Appeals, stating that, "[NCRR's] claim is not redressable because the fund has been terminated and its administering board no longer exists."

NCRR was represented by McCutchen, Doyle, Brown, and Enerson LLP.

Shibayama v. USA

On July 6, 2001, oral arguments were held at the U.S. Court of Federal Claims in Washington, D.C. in the case of *Shibayama v. USA*. Plaintiffs Isamu Carlos (Art) Shibayama, Kenichi Javier, and Takeshi Jorge, are three brothers, who were all forcibly deported from their home in Peru and incarcerated in camp in Crystal City, Texas during WWII, are seeking redress equity for their civil and human rights violations, including full disclosure of the facts, an apology which matches the U.S. crime against humanity, a declaration of the false "illegal alien" status, redress compensation, and educational programming. Isamu "Art" Shibayama, appeared on behalf of himself and his brothers Kenichi Javier and Takeshi Jorge, before Judge Marian Blank Horn in Washington, D.C. The Shibayamas were represented by noted human rights attorney Karen Parker.

Judge Horn expressed her personal sympathies with the Shibayama brothers, and further mentioned that her own parents were excluded from their country of origin. Judge Horn indicated, however, that the court would need to rule on whether or not the plaintiffs met the key requirements for jurisdiction.

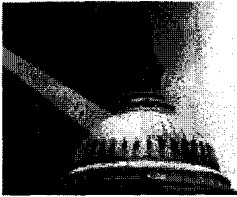
The Department of Justice argued that the Shibayama brothers failed to meet the key tests for jurisdiction – that they had not exhausted their administrative remedies at the Office of Redress Administration; that they were barred by the statute of limitations; and that they did not meet the eligibility requirements of U.S. permanent residency.

In 2002, the Court of Federal Claims ruled that Japanese Latin Americans are ineligible for redress under the CLA unless they were granted retroactive permanent resident status to the time of their internment. The court also ruled that it did not have jurisdiction to consider their claim for redress equity for civil and human rights violations.

In June 2003, the Shibayama brothers, along with co-petitioner, the Japanese Peruvian Oral History Project (JPOHP), filed a petition with the Inter-American Commission on Human Rights (a body of the Organization of American States) seeking acknowledgement and equitable redress from the U.S. government for “war crimes and crimes against humanity” perpetuated against them as children during WWII. Sixty years ago, the three brothers, all born in Peru, were taken as part of a U.S. government-orchestrated abduction of over 2,200 persons of Japanese ancestry who were citizens and residents of 13 Latin American countries. It brought men, women and children at gunpoint on U.S. military transports, confiscated their passports, and incarcerated them in U.S. camps for up to five years

Plaintiffs’ attorney, Ms. Karen Parker explained that the Organization of American States’ (OAS) Inter-American Commission on Human Rights is like the regional United Nations for the Americas. The Shibayamas and JPOHP filed their petition with the OAS after they were unable to obtain justice in U.S. domestic courts. Ms. Parker said that because the U.S. has not ratified many international treaties, it is not accountable to any courts but its own domestic courts. She stressed that it is critical for voters to hold their elected officials accountable for the full implementation and application of international and human rights law standards to the petitions of U.S. claimants in international courts.

A decision by the IACHR is still pending.



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Redress for Japanese Latin Americans/ Court cases

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- 1 Japanese Latin American Redress: Court Cases
 - 1.1 Significant Court Cases (Supreme Court, etc.)
 - 1.2 People in the Court Cases
 - 1.3 Proponents of JLA Redress
 - 1.4 Articles and resources

Japanese Latin American Redress: Court Cases

Note: This page refers specifically to court cases involved with the movement for Japanese Latin American redress. For further information concerning the issue, please visit the following pages:

- Japanese Latin American life under U.S. policies before and during World War II
- Japanese Latin American life under U.S. policies after World War II
- Redress for Japanese Latin Americans/ U.S. legislation
- Redress for Japanese Latin Americans/ Media, politics and community
- Redress for Japanese Latin Americans/ Comparisons with other redress and reparation efforts

Significant Court Cases (Supreme Court, etc.)

- **The Civil Liberties Act of 1988** The act that was supposed to right the wrongs done against Americans of Japanese descent during World War 2, but due to the Eligibility Provision people who were not citizens or permanent resident aliens of the United States. This act is important because it is the cause of many of the Japanese Latin American cases against the government.
- **1996 Filing of MOCHIZUKI v. USA 43 Fed. Cl. 97 (Fed. Cl. 1999)** A lawsuit filed in 1996 that challenged the denial of redress to Japanese Latin Americans seeking reparations in the sum of \$20,000, and a formal apology from the United States government
 - Los Angeles Times article published within weeks before the 1996 lawsuit
 - **1998 Settlement agreement announced for Mochizuki v. US** Under this settlement Japanese Latin American internees received \$5,000, to the extent funds were available, as well as an apology. This was not adequate to some and other cases stemmed from this settlement.
 - Official Department of Justice press release***ACLU of Southern California Press Release
- **1998 Filing of Shima v. Reno (USA)**

This suit was filed in 1996 on behalf of over 2,000 Japanese Latin Americans who were not compensated for internment during World War II, while Japanese Americans were. The Japanese Latin Americans were not US citizens, but were still interned by the US government. Japanese Americans were given an apology and money during the Civil Liberties Act of 1988, but this did not cover Japanese Latin Americans. Court TV Library

- **2002 Shibayama v. United States, 55 Fed. Cl. 720 (Fed. Cl. 2002).** Three Japanese Latin American brothers seeking redress from the United States. Shibayama was denied reparations from the Civil Liberties Act of 1988 passed by United States because they were not U.S. citizens at the time. Art Shibayama joined the group Campaign for Justice in the mid 90's. In 1996 Campaign for Justice and some lawyers helped in a lawsuit to garner reparations for Japanese Latin Americans. The Case was settled in 1998 giving \$5,000 dollars to each surviving Japanese Latin American internee. The Shibayama brothers were dissatisfied with this settlement and still have a case pending against the government.[1]

2003 Filing of OAS Petition A petition on behalf of the Shibayama brothers stating that the State is responsible for violating certain rights that are supposed to be protected by the American declaration of the Rights and Duties of Man. The brothers were forcibly seized and interned by the U.S. from March 23, 1944 to September 9, 1946. They were denied reparations from the 1988 Civil Liberties Act because they were not U.S. citizens at the time of their internment. The Shibayama brother later rejected the Mochizuki settlement and filed their own suit against the U.S. in California arguing that their internment was a violation of their human and civil rights. This is a current attempt to bring issue to the international court. USA Petition 434.03-Japanese Peruvian Oral History Project-Shibayama Court Case

People in the Court Cases

- *Plaintiffs:*

Carmen Mochizuki - 64 years old at time of case. She was taken from her home in Peru in 1943 and sent to a detention camp in Crystal City, Texas. She applied for redress under the 1988 Civil Liberty Act but was denied. Court TV Library

Alicia Nishimoto - 63 years old at time of case. She was taken from her home in Peru in 1943 and sent to a detention camp in Crystal City, Texas. Court TV Library

Henry Koshio Shima - 73 years old at time of case. He was taken from Peru in 1943 and sent to detention camps in Kennedy, Texas, Kooskia, Idaho, and Crystal City, Texas until 1946. Court TV Library

Isamu Carlos Shibayama - One of three brothers seized by the United States in Peru in 1944 and forcibly taken to the United States, held in custody in an internment camp in Crystal City, Texas from March 23, 1944 until September 9, 1946, were improperly denied permanent resident status in the United States until 1956, and were subsequently denied appropriate reparations under the Civil Liberties Act of 1988
Shibyama Court Case

Kenichi Javier Shibayama - One of three brothers seized by the United States in Peru in 1944 and forcibly taken to the United States, held in custody in an internment camp in Crystal City, Texas from March 23, 1944 until September 9, 1946, were improperly denied permanent resident status in the United States until 1956, and were subsequently denied appropriate reparations under the Civil Liberties Act of 1988
Shibyama Court Case

Takeshi Jorge Shibayama - One of three brothers seized by the United States in Peru in 1944 and forcibly taken to the United States, held in custody in an internment camp in Crystal City, Texas from March 23, 1944 until September 9, 1946, were improperly denied permanent resident status in the United States until 1956, and were subsequently denied appropriate reparations under the Civil Liberties Act of 1988
Shibyama Court Case

- *Defense:*

Janet Reno - Attorney General at the time of case, also heads the Department of Justice.

Dede Greene - Administrator of the Office of Redress Administration

Proponents of JLA Redress

- Campaign for Justice
- Nikkei for Civil Rights and Redress

Articles and resources

- Campaign for Justice
 - Campaign for Justice: Litigation Archives
- U.S. response to IACHR Petition, In re Isamu Carlos Shibayama, alleging WWII internment (December 17, 2004)
- Court TV Library: The 1996 Petition

- [Nikkei for Civil Rights and Redress: Historical Background and Washington Post article](#)
- [Japanese American Citizens League: Resolution on Japanese American and Japanese Latin American redress](#)
- [Official DOJ Press Release Announcing the 1998 Settlement](#)
- [ACLU Press Release after 1998 Settlement](#)
- [Los Angeles Times article published before the 1996 lawsuit filing](#)
- [Honolulu Star-Bulletin Editorial Promoting Full Redress](#)
- [USA Petition 434.03-Japanese Peruvian Oral History Project-Shibayama Court Case](#)

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MEMORANDUM

TO: SENATOR INOUE
FROM: Van
DATE: June 5, 2007
RE: Mark-up on S. 381, the Commission on Wartime Relocation and Internment of Latin Americans of Japanese Descent Act

The Committee on Homeland Security and Governmental Affairs is scheduling a mark-up on Wednesday June 13, 2007. As of today, the mark-up has not been formally noticed yet, but Committee Chairman Senator Lieberman is planning to include on his agenda S. 381, the Commission on Wartime Relocation and Internment of Latin Americans of Japanese Descent Act (Commission Bill) that you had introduced earlier this year.

I have touched bases with staffers from the offices of Senators Lieberman, Akaka, and Stevens, and we are working on mark-up statements from each of these offices.

Daniel Chun and I have been working to answer your questions posed to Floyd Mori. Attached is a memo that addresses the points that you had raised.