

Testimony for  
the  
Subcommittee on Administrative Law and Governmental Relations,  
Judiciary Committee

by  
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Mr. Chairman, Committee Members. Thank you for the opportunity to testify before the House Judiciary Subcommittee on Administrative Law and Governmental Relations regarding the recommendations of the Commission on Wartime Relocation and Internment of Civilians and H.R. 4110, which incorporates their recommendations into legislative language.

Last year, the Commission, by an eight to one vote, recommended that the U.S. government pay \$1.5 billion "to provide a one-time per capita compensatory payment of \$20,000 to each of the approximately 60,000 surviving persons excluded from their places of residence." As the Vice Chairman and the only member of the Commission actively serving in Congress, I was the sole dissenter on the issue of individual monetary reparations. Having chosen to dissent, some might conclude that I in some way find fault with the basic conclusions of the Commission on Wartime Relocation and Internment of Civilians. Let me make me clear I do not. The history of the period leaves little room for doubt that a grave injustice was committed when the United States government chose to intern the nearly 120,000 Japanese-Americans and resident aliens living on the west coast. The decision to intern was shaped by a lack of political leadership on the part of the Franklin Roosevelt Administration, race prejudice, and war hysteria; and it was wrong.

However, with the benefit of the Commission report, Congress now is being asked to decide which of the Commission's recommendations to accept. HR 4110, The Civil Liberties Act of 1983, the bill before this very distinguished subcommittee, is the legislative form of the Commission's recommendations. It is my opinion that the Congress should reject the proposals for individual monetary redress. There were five reasons for my dissent. I would like to take this opportunity to elaborate on these.

First, I strongly disagree with those who suggest that in order for any action -- government or private -- to be sincere, it must be translated into the "coin of the realm." Should the Congress accept the Commission's suggestion of \$20,000 per internee, the total appropriation would be nearly \$1.5 billion. This raises several serious questions

which Congress will have to confront. Do we truly believe that nothing can be sincere and credible, unless it involves the coin of the realm? Have we reached such a state in our society that, unless money is attached, nothing can be a genuine expression of concern or action? H.R. 4110 as written will not "make more credible and sincere any declaration of concern by the United States over violations of human rights committed by other nations."

Second, I believe it is degrading to those who were interned to place a flat dollar amount on their experience. How can one accurately make a valuation on time spent in wrongful detention? In 1979 Judge William Marutani, a fellow Commissioner, writing in the Pacific Citizen said, "...I find it personally insulting as an American that my freedom, my liberty, my dignity can be bought. And such a paltry sum (\$25,000) at that..." Dr. Ken Masugi, resident fellow at Claremont Institute and whose parents were relocated, testified before a Senate committee noting, "...any legislation stemming from the report and recommendations will be far more likely to promote racism and bigotry than to dampen those evils." In the words of the Commission report, Personal Justice Denied, "Some find such an attempt in itself a means of minimizing the enormity of these events in a constitutional republic. History cannot be undone; anything we do now must inevitably be an expression of regret, and an affirmation of our better values as a nation, not an accounting which balances or erases the events of the war."

Third, I am concerned that monetary redress has been mistaken as the major focus of the Commission. It would be a grave failing to interpret the primary objective and findings of the Commission to be merely a determination as to what financial reparations should be.

During Commission deliberations we (all Commissioners) feared that the recommendations would overshadow the historical report. In fact, it was because of this concern that the Commission deliberately released its historical findings in February 1983 before we even voted on the issue of reparations. In fact, the final recommendations were not released until June 1983, nearly five months later than the Commission report.

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In our historical report, Personal Justice Denied, the Commission has been able to achieve what I believe was its main purpose: to educate the American people about the internment which occurred. Many people today are not aware of the magnitude and extent of the internment.

A fourth major objection I have against individual monetary compensation is that the Commission's recommendations may establish a precedent to pay money for the redress of other long past injustices. Carried to its logical extension, such a principle of restitution, could have untold consequences. Should the Chinese be paid back for their underpaid role in helping the railroads open the American West? Should people of German ancestry be compensated for being denied rights in World War I? Should we pay monetary redress for the abhorrent practice of slavery or the inhumane treatment of Indians 100 years ago? Do we as a nation want to set a precedent that places a price tag on the loss of individual freedom? Does it make sense for a present guiltless and uninformed generation to pay reparation for decisions made by leaders who are all long removed from the scene?

Fifth, given the reality of the budget situation confronting the federal government, I am concerned that the Commission recommendations may be seen as an empty gesture, unfairly raising the hopes of those affected. It is hard to believe that Congress is of a mindset to commit funds of the magnitude that have been recommended. The comment attributed to Senator Dan Inouye, of Hawaii, that "\$25,000 (to each person interned) is not enough (to compensate for up to four years spent in relocation), and \$3 billion is too much (for the U.S. Treasury)," is still appropriate -- even though the Commission has recommended a lower figure of \$1.5 billion based on individual payments of \$20,000 per survivor.

Congress has had to deal with the tough issues of restoring solvency to the Social Security program -- and this has required reductions of prospective increased benefits from the system. Similar difficult decisions have been made by Congress in regard to a whole host of other domestic programs. When this request for individual funds of reparations is placed against those of Social Security recipients, food stamps and nutrition programs, senior citizen housing, and national

defense needs within the context of an already hemorrhaging federal deficit, does it stand up?

Some now suggest that the federal deficit will be in the \$150 to \$200 billion range, not just for this year, but for several years to come. It is in this fiscal environment that the Commission is asking the Congress to provide individual reparations.

Is a service being rendered by heightening the expectations of the affected persons when, in my judgment, there are no reasonable expectations of those hopes being fulfilled?

Despite my dissent on the individual monetary reparations issue, I believe the Commission has been able to perform a valuable service to the nation. Remember that prior to the establishment of the Commission, no comprehensive investigation into the issuance of the Executive Order had taken place by the Federal government. It was because of this fact, and in light of the injustices which occurred, that an overwhelming majority of this House and I supported passage of the legislation creating the Commission.

The creation of the Commission is reflective of the openness of our society and of our disposition to re-examine our past mistakes in order to prevent them from occurring in the future. It truly is the mark of an honest, just, and noble people that we can recognize the error of our World War II evacuation and internment of Japanese-Americans and resident aliens and Aleuts; the establishment of the Commission is important evidence of the essential integrity of our system. We do not see the Soviets today inquiring into the Barbaric treatment accorded Jews, Christians, and other minorities. We do not see Castro voluntarily inquiring into the conditions afforded the subjects of his island prison camp.

Additionally, the Commission has provided background and insight on one of those few moments in our history when the constitutionally provided shield did not protect Americans and Japanese resident aliens from violations of their civil liberties. While the Founding Fathers of our

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country built a system of checks and balances within our democracy, each of the three branches of government was involved to some degree in the relocation decision -- the Executive branch through the issuance of Executive Order 9066, the Legislative branch by Congressional enactment of legislation which ratified and confirmed the Executive Order, and the Judiciary through the Supreme Court decision which upheld the exclusion order as constitutional at the time it was issued.

There is a valuable lesson to be learned from this experience: that a government of men and women can make mistakes despite our checks and balances.

Finally, Mr. Chairman as a former Commissioner I appreciate your interest in reviewing the information contained in the Department of Defense publication, The MAGIC Background of Pearl Harbor. The Commission was unable to focus attention on the decoded Japanese cables compiled in the "MAGIC" volumes due to time constraints.

As one who is committed to examining all facets of the events that transpired, I believe it would be inappropriate for the Congress to ignore or completely discount the possibility that the cables played some role in the decisions which ultimately affected the Japanese-Americans and resident aliens.

Mr. Chairman and committee members, as you begin to examine this regrettable period in our American history; it may behoove us to recall the words of President Ford, "...we have learned from the tragedy of that long ago experience forever, to treasure liberty and justice for each individual American, and resolve that this kind of action shall never again be repeated."