Incidentally, all three of the petitioners for coram nobis have announced that they seek no monetary payments, only the vindication of their honors and judgments.

Thus, after all is said, there is now renewed controversy over the constitutionality of the evacuation and subsequent actions.

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In its Report 1 "Personal Justice Denied", the Commission on Wartime Relocation and Internment of Civilians states its views in these words:

> Today the decision in Korematsu lies overruled in the court of history. First, the Supreme Court, a little more than a year later in Duncan v. Kahanamoku, reviewed the imposition of martial law in Hawaii and struck it down, making adamantly clear that the principles and practices of American government are permeated by the belief that loyal citizens in loyal territory are to be governed by civil rather than military authority, and that when the military assumes civil functions in such circumstances it will receive no deference from the courts in reviewing its actions. Korematsu fits the Duncan pattern--the exclusion of the Nikkei not only invaded the recognized province of civil government, it was based on cultural and social facts in which the military had no training or expertise. General DeWitt had assumed the role of omniscient sociologist and anthropologist. Duncan makes clear that no deference will be given to military judgments of that nature.
>
> The other leg of the opinion, the failure to strike down an invidious racial discrimination, stands isolated in the law--the Japanese American cases have never been followed and are routinely cited as the only modern examples of invidious racial discrimination which the Supreme Court has not stricken down...
>
> Moreover, the law has evolved in the last forty years and the equal protection of the laws, once applicable only to the states by the language of the Fourteenth Amendment, has now been applied through the due process clause of the Fifth Amendment to actions of the federal government. Thus the constitutional protection against federal discrimination has been strengthened. Korematsu is a curiosity, not a precedent on questions of racial discrimination.
>
> Finally, insofar as Korematsu relied on the inherent authority of an Executive Order from the Commander-in-Chief and not on a program articulated and defined by statute, that precedent has been overruled by the decision of the Court in the steel siezures case.
>
> Korematsu has not been overruled--we have not been so unfortunate that a repetition of the facts has occurred to give the Court that opportunity--but each part of the decision,

questions of both factual review and legal principles, has been discredited or abandoned.

The CWRIC may be correct in that Korematsu has been thoroughly discredited, but it may not be so accurate in speculating as to when the Court may be given an opportunity to reverse itself, as witness possible and probable appeals to the nation's highest tribunal in the class action suit and the coram nobis cases.

5. What About 1948 Japanese American Evacuation Claims Act?

One of the more often expressed objections to the instant bill is that the Japanese American Evacuation Claims Act of 1948 foreclosed future payments, or compensation, to the evacuees.

As the then Washington JACL Representative (1946-1972), I believe that I am as competent as any to comment on this issue.

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When JACL held its first biennial postwar National Convention in Denver, Colorado, in the spring of 1946, among the top priorities determined by the delegates was some indemnification for the many and extensive losses suffered as a consequence of the 1942 mass evacuation.

Four years earlier, following the issuance of Executive Order 9066 in February 1942, I was among JACL leaders and our Caucasian advisers who in a series of meetings with Army officials and other government agency division chiefs in San Francisco, strongly urged that appropriate safeguards be made for the protection of our properties, as had been done in World War I when an Alien Property Custodian was appointed.

Those assurances that our properties would be adequately protected were among the considerations that led to our "cooperative collaboration" with the military in the evacuation process.

Of course, as is now generally accepted, what we thought was a "pledge", was not implemented at all. The Army left most owners of homes, businesses, farms, and properties "to fend for themselves". Churches, garages, empty buildings and barns, etc., were used to keep what could be packed and stored.

Not having any information as to how long they would be "excluded" from their home areas added to the confusion and tragedy. At the last moment in desperation bargain and "fire" sales, evacuee assets were sold for far less than market value, certainly for mere fractions of replacement costs. Or, the goods were given away to religious organizations and personal non-Nisei friends. In a few cases, family friends stored evacuee properties, rented their homes, and operated their farms or businesses. The WRA was established too late to be of much assistance.

There is no denying that every evacuee lost most, if not all, of their hard-earned assets. And few retained books and documents, for by that time

they knew they could only take to the camps that which they could individually carry. And bedding, clothing, household articles, and medicines for infants and others were more valuable than scraps of paper.

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In any case, when we returned to Washington from Denver and took up this question of property losses, we learned that the Department of the Interior, which had taken over what was left of the WRA, and the Justice Department had already done some preliminary work on the proposals. Whenever we discussed specifics, we were assured that the Government had our best interests in mind and would draft the most generous bill that they thought the Congress would enact.

What was introduced as an Administration measure became the 1948 Japanese American Evacuation Claims Act, as both Houses passed the measure almost without dissent. But we quickly learned to our sorrow that the attorneys in the Department of Justice who administered the bill, interpreted its provisions technically, legally, and narrowly, not as compassionately nor with the sensitivity and sympathy and understanding that we thought we had been promised.

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The law itself was highly restrictive, as if it were written for adversarial reasons with the Government trying to provide the least possible relief to the evacuee claimants.

The Attorney General's Office was given authority to determine "according to law" any claim by a person of Japanese ancestry against the Government arising on or after December 7, 1941, when such claim was not compensated by insurance or otherwise, "for damages to or loss of real or personal property ...that is a reasonable and natural consequence of the evacuation or exclusion from a military area" in California, Washington, Oregon, and Arizona.

Moreover, the Attorney General could not consider claims "for damage or loss on account of death, or personal injury, personal inconvenience, physical hardship, or mental suffering", neither for "loss of anticipated profits or loss of anticipated earnings".

He was also required to "adjudicate all claims filed...upon written findings of fact and reasons for the decision". Finally, the Attorney General could not make an award exceeding $2,500, being required to submit "larger" sums for congressional approval.

By the January 3, 1959 deadline set by statute, a total of 23,689 claims were timely filed with the Department of Justice, with the total amount claimed being $131,949,976.

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Since a Federal Reserve Bank of San Francisco estimate of evacuee property lost as a consequence of evacuation that is widely quoted is $400 million, the amount claimed represents less than a third of the estimated losses. About 60% of all the claims filed were for less than the $2,500 authorized by law for payment by the Attorney General, with 40% above that statutory ceiling, with several running over a million dollars each.

Inasmuch as the attorneys assigned to "adjudicate" these claims interpreted the remedial legislation narrowly and legalistically, the evacuee was required to offer sworn testimony or evidence of ownership, with hearsay and secondary sources being inadmissable. Such probative evidence as documents or collaborative material, which in most cases had been thrown away, destroyed, or abandoned in the haste and confusion of evacuation, was needed to "prove" a loss, even in the so-called pots and pans claims for less than $500.

One of JACL's earliest arguments concerned minor claims for special clothing, shoes, etc., required "in preparation for the evacuation", as well as payments and fees due on continuing contracts for employment, etc., and for losses sustained by continuing costs and/or growing crops and harvests, all of which were disrupted by the evacuation.

Because of the administrative and statutory problems, only 211 claims were "adjudicated" in 1950, the second year of the program, with only 137 being approved for payment. The rest were "dismissed" for lack of sufficient evidence. The successful 137 had filed claims for property losses aggregating $141,373, or an average of $1,030, and were paid a total of $62,500 for an average of $450 per claim. More importantly, it was costing the Department of Justice approximately $1,400 to process each case paying only $450 in compensatory items.

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The slowness and extravagant costs caused JACL and the Appropriations Committee of the House and the Senate to urge the Attorney General to develop some more expeditious and less expensive procedures. In response to these urgings, the Justice Department proposed a compromise settlement amendment to compromise and settle the smaller claims on the basis of affidavits and available records up to three-fourths of the amount of the compensable items, or $2,500, whichever was less.

Since some 60% of the claims were for $2,500 or less JACL agreed to this compromise and lobbied Congress for its approval, which was speedily given, in the belief that the smaller claims that would be expedited would be helpful to the evacuees to relocate and resettle themselves after so many years in camps and/or temporary communities. Also, we believed that by settling the smaller claims, we would be able to more expeditiously consider the remaining 40% larger claims. This new procedure became law August 17, 1951.

The Attorney General immediately made out special forms and schedules and mailed them out to all claimants whose claims were for $3,600 or less.

The larger claimants were notified that if they desired to compromise and settle their claims for sums not exceeding $2,500, they could do so. The Attorney General was also persuaded to allow claimants residing in community-property states to divide their claim involving such community property between husband and wife, with each spouse receiving up to $2,500 for a family total of not more than $5,000.

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As of December 31, 1953, 998 claims totalling $3,344,756 had been dismissed for one reason or another; 544 claims had been "adjudicated" for $529,226; and 19,296 claims had been compromised and settled for $22,148,731. Only about 3,000 claims remained to be processed.

The compromised and settled claims were originally for a total of $63,700,000, which meant that many with claims much larger than $2,500 compromised and settled in order to secure much needed funds to relocate and rehabilitate themselves, even at great financial sacrifices in terms of their timely filed claims. Several with original claims of more than $100,000--and a few with more than $1,000,000--compromised and settled, rather than wait possibly for years before their claims could be "adjudicated".

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In the Second Session of the 83rd Congress (1954) and the Second Session of the 84th Congress (1956), JACL tried unsuccessfully to not only expedite but also to liberalize the "compensable items" listings. JACL fought to have Congress amend the 1948 law as it was amended in 1951 to include among those losses that could be compromised and settled "goodwill" in businesses, evacuation preparation expenses, transportations expenses, crop and orchard losses, rental and management expenses, corporations including churches, charitable organizations, etc.

In the attempt to liberalize the 1948 Act, JACL was able to persuade the then Subcommittee on Claims of the House Judiciary Committee to hold a series of public hearings in San Francisco and Los Angeles in both the summers of 1954 and 1955. Republican Edgar Jones of Illinois was the Subcommittee Chairman in the first series of California hearings and Democrat Thomas Lane of Massachussetts the second.

Public Law 673, approved July 9, 1956, sponsored by JACL was, however, enacted. Under its provisions, the Attorney General could now compromise and settle claims up to $100,000, the Court of Claims could determine claims where compromises could not be reached, and three new classes of claims could be recognized: those filed by organizations, those filed by claimants who were interned as "enemy aliens", and those mailed but not received within the time limit of the original filing date.

A comment in passing: the four Attorneys General who supervised the evacuation claims program considered some of the decisions regarding some of the losses to be so "interesting" that they had them published by the Government Printing Office as "Adjudications of the Attorney General", Volume I, "Precedent Decisions Under The Japanese American Evacuation Claims Act, 1950-1956".

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The final claim was paid in 1965, more than 23 years after the evacuation and 17 years after the enactment of the initial enabling legislation. It was a compromise payment, after hearings by the Court of Claims, to Ed Koda, son of Keisaburo Koda, and to Mrs. Jean Koda, widow of Ed's brother William. The Kodas were pioneer rice growers near South Dos Palos, owning some 4,000 acres of rice lands. The original claim was for $1,210,000 and was settled for $362,500. Attorney for the Kodas was James Purcell, of San Francisco.

A "grand" total of some $38 million was paid to some 22,500 successful claimant evacuees. This amounts to less than ten cents to a dollar claimed, at 1942 bargain prices, without interest or consideration of the inflationary increases since the evacuation.

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In June 1983, ICF Incorporated released its estimates of "Economic Losses of Ethnic Japanese As A Result Of Exclusion And Detention, 1942-1946", which was commissioned by the CWRIC in connection with its Reports.

In its "Executive Summary", the analysis states the obvious:

> ...The Ethnic Japanese doubtless suffered other types of losses and injuries during the war in addition to economic losses, including illness, hardship, denial of civil rights, inconvenience, and disruptions of family and community. Moreover, the losses incurred by individuals may well have been felt for many years after the detention.
>
> For purposes of this analysis, however, the magnitude of the losses and injuries that come under the hearing of "pain and suffering" cannot be estimated objectively in an economic sense and we made no attempt to study them. Also for purposes of analysis, the estimation of economic losses suffered by ethnic Japanese was confined to the exclusion and detention period, 1942-46.
>
> In general, economic losses of ethnic Japanese as a result of exclusion and detention can be placed in three broad categories: (1) income losses; (2) real and property losses; and (3) human capital losses. This study includes detailed quantitative analysis of the first two categories only.
>
> Human capital refers to the education, experience, and skill that has been invested in people, making them valuable in an economic sense. In terms of career and earnings potential, it is possible that detention resulted in human capital losses to the ethnic Japanese. Our analysis does not examine this matter...

After explaining the methodology used in estimating income and property losses, the conservative results are as follows:

> Expressed in 1945 dollars, the central estimates of ethnic Japanese losses are $136 million of lost income and $67 million to $116 million of uncompensated lost property, yielding total uncompensated economic losses of $203 million to $251 million. A range of values is presented here because two separate methods for property loss estimation are reported. We feel that both results are necessary to provide an adequate picture of property losses...
>
> When translated into 1983 dollars, total losses are between $1.1 billion and $4.2 billion, depending on the interest and inflation adjustments used. As can be seen, solely by virtue of the length of time that has passed since the losses were incurred, adjustments for inflation and interest greatly magnify the estimates...

The commissioned analysis does not include the so-called voluntary evacuees who left the military zones "on their own" and are not identified generally as evacuees. Only adults, and not children, were included in the estimates. In-Kind income and allowances in camp are, however, included in the calculations, but no adjustments for schooling within the internment centers.

Detailed charts and graphs are included, as well as explanations.

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Remembering that the $400 million estimated by the San Francisco Federal Reserve Bank has been a long accepted total, we note that this 1942 sum was probably estimated by some official "on the spot" and based perhaps on speculative opinions advanced by colleagues and other officials involved in the mass military movement.

Nevertheless, the Federal Reserve calculations of 1942 are almost double those of the CWRIC study. Accordingly, if the Federal Reserve Bank's estimates are projected even roughly into 1983 dollars, its approximation for only property losses would be between $2 billion and $8 billion.

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While an outline of the operations of the Evacuation Claims Act of 1948, as amended, is interesting, it does not address itself to whether enactment of that statute foreclosed future payments as redress or indemnity for the eviction, exclusion, and imprisonment program.

Still, it needs to be stressed that there is no constitutional prohibition against Congress enacting new legislation, or amending present law, at any time, regarding any subject matter that it chooses to act upon, even if the 1948 measure specifically did include such a provision, which, most assuredly, it did not.

The statute in question does provide that in Section 4(d) "The payment of an award shall be final and conclusive for all purposes, notwithstanding any other provision of law to the contrary, and shall be a full discharge of the United States and all of its officers, agents, servants, and employees with respect to all claims arising out of the same subject matter. An order of dismissal against a claimant, unless set aside by the Attorney General, shall thereafter bar any further claim against the United States, or any officers, agents, servants, or employees thereof arising out of the same subject matter."

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To this day, I am persuaded that the Japanese American Evacuation Act of 1948 was a well-intended law on the part of the original conceivers and of the Congress. Unfortunately, the lawyers who drafted and then administered the legislation failed to understand the corrective, remedial, and compassionate objectives, and so the evacuees who deserved much more were once again deprived of justice, equity, and fair play.

Since the subject matter of the 1948 law is clearly related only to claims for property losses, it is not germane to H. R. 4110, which has no reference to property losses as the basis for any claim or compensation.

H. R. 4110 is general legislation that is intended to redress all of the victims of Executive Order 9066 without any regard as to whether they suffered economic or other loss.

H. R. 4110 tries to provide a modicum of redress for the deprivation of freedom and all the constitutional rights that were abrogated in World War II for those of Japanese ancestry, and Japanese Americans alone, losses that cannot be translated into monetary or compensatory terms adequately, equitably, or reasonably.

Just as the Germans could not appropriately redress the victims of the holocaust individually, and did not try to, so H. R. 4110 tries to collectively provide some remedies to all the victims of our wartime travails. All are treated equally, though some may have suffered or lost more than others.

How can one decide how much more one endures than another in the loss of freedom, dignity, personality, character, opportunity, affection, friendship, love, etc., through such experiences as evacuation and all it implied and meant to each individual?

6. Wasn't "Protective Custody" for Evacuees A Major Army Goal?

Some apologists for the War Department's decision to imprison evacuee Japanese Americans in World War II suggest that this was a form of benevolent and benign "protective custody" to protect the dispossessed and disarmed from violence and ugly confrontations by the general public.

Dr. Robert Redfield, Dean of the Division of Social Sciences of the University of Chicago, in discussing the West Coast movement in an article

entitled "American Society in Wartime", University of Chicago Press, 1943, wrote "When it is argued that these people had to be evacuated for their own protection from a fearful and angry Caucasian population, it will be asked if the Government is establishing a principle of 'protective custody' of suspiciously foreign flavor and offensive to the Bill of Rights."

William Henry Chamberlain, writing in "Harpers Magazine" for October 1942, on the subject "Why Civil Liberties Now", points out the obvious dangers involved in this type of repressive thinking: "It (evacuation) is not a reprisal for proved disloyalty; it could be regarded either as preventive punishment or as 'protective custody'...There is almost nothing that could not be done under the principle of preventive punishment. And no group that might in the future be unpopular in some locality for reasons of race, color, or religion, could feel safe if the consequence of a threat of mob violence could not be the maintence of law and order, but the uprooting and deportation of the threatened group."

"Fortune Magazine", in its April 1944 issue, under the title "Issei, Nisei, Kibei", warned that "The American custom in the past has been to lock up the citizen who commits violence, not the victim of his threats and blows. The doctrine of 'protective custody' could prove altogether too convenient a weapon in many other situations. In California, a state with a long history of race hatred and vigilantism, antagonism is already building up against Negroes who have come in for war jobs. What is to prevent their removal to jails, to 'protect them' from riots? Or Negroes in Detroit? Jews in Boston? Mexicans in Texas? The possibilities of 'protective custody' are endless, as the Nazis have so amply proved."

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"The Case For The Nisei", the JACL brief submitted to the Supreme Court in the Korematsu challenge, speaks to this subject matter:

> Not only is the doctrine of protective custody un-American, evil, and dangerous in any case; it was totally unnecessary and unwarranted in this particular case. The great mass of the people on the West Coast, including the people of California, were initially disposed and determined to be just, fair, and calm. If they had been encouraged in that resolve by the Government, if the relevant facts, such as the truth of the blameless behavior of Japanese residents and citizens of Japanese ancestry in Hawaii on December 7 had been promptly released, if the Government had harkened to evidence rather than opinion, and to representative citizens instead of pressure groups whose very origins and purposes are rooted in bigotry, the execrable rationalization of "protective custody" would not have to be offered today.

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Back to the actual chronicle of events, to the historical record, and it is easy to find that the first and foremost argument advanced by General

DeWitt and the Department of War for the wholesale evacuation and exclusion of the Japanese from the Pacific Coast was that "military necessity" required it. Subsequently, when it became evident that no such "military necessity" existed, the "protective custody" concept began to become the "accepted, official" reason for the 1942 excess.

Returning again to "The Case For The Nisei", we read that:

> General DeWitt in his Final Report carries forward the argument for the need for protective custody. He claims that "the situation was fraught with danger to the Japanese population itself" and that the West Coast public "was ready to take matters into its own hands". His discussion of the "incidents of violence", however, is exceedingly brief and vague. He does not tell us when or where violence occurred or how many injuries or fatalities were sustained. Finally he admits that many of the alleged incidents which were reported "were either subsequently unverified or were found to be cumulative". Mr. Carey McWilliams, who was Commissioner of Immigration and Housing of California at the time evacuation began, supplies the missing information. He informs us: "Actually, there are only two reported instances of violence. On December 27, 1941, a fight occurred between Filipinos and local Japanese in Stockton, California, and on January 1, 1942, unknown persons fired several shots at a Japanese in Gilroy."
>
> The fact that practically all of the violence and threats of violence came from Filipinos is in itself significant. The Filipinos are a West Coast minority who in recent years have been treated far more badly than the Japanese, and who have been much more depressed economically and socially. With the Japanese invasion of the Philippines these people found themselves for the first time since their arrival in America, favorably considered by White Americans. Their initial overcompensation, once they could act aggressively and be accepted as American patriots, is much more a comment on the repression they have suffered at the hands of the West Coast anti-Oriental bloc, than it is on the situation of the "Japanese".

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Now that it has been established that the concept of "protective custody"is not only foreign to our tradition but repugnant to all our judicial thinking, let us examine the application of this theory to what happened to the evacuees in 1942.

If there is any validity to the "protective custody" advocacy, how then does one explain the construction of the camps.

All ten of the camps were built far from any population center, in desert and wasteland areas, away from highways, railroad tracks, and other

easy access routes. While the barracks were the standard Army types for single-men only occupancy, the fences were deliberately set up and angled as are those in maximum-security prisons for the most hardened of criminals. The tops of the barbed wire fences were tilted or slanted inwards, not outwards, to prevent those in the inside from being able to climb up and over them to escape. The guards in the watchtowers, which were so placed as to dominate inside activity, walked their watches and had their guns poised for inside camp controls. The searchlights were positioned to shed light in the inside of the camps, not on the outside. Most crucial, though, to me was that the MPs were ordered to prevent any evacuee to leave without the proper clearances, but had not been trained and/or instructed to keep advancing or protesting mobs from rushing the gates and fences. About eight evacuees were shot and killed by the guards, at least two of whom were simply reaching beyond the fences for flowers that were blooming just outside in the desert sagebrush.

Also, if "protective custody" was the order of the times, why weren't better housing, feeding, educational, medical, and recreational facilities provided? Knowing how well Japanese diplomats and businessmen were housed and treated in the mountain resort hotel and grounds of Virgnia by our Government, it would seem that they and other prisoners of war, as well as interned enemy alien Germans, Italians, and Japanese under the Enemy Alien Control of the Justice Department, were accorded Geneva Convention rights, while we American citizens and resident aliens in our prison camps were not even provided minimum standards.

Furthermore, if there were imminent dangers to the evacuees outside the camp areas that required "protective custody" treatment, how does one account for the encouraged use of these "prison" inmates to help harvest crops in labor-scarce areas, for the student "relocation" programs to assist high school and college and university pupils to leave the camps to complete their educational ambitions, and to seek "outside" housing and employment opportunities for citizens and aliens who could be "cleared" for such "normal" activities, etc.

In addition to all that, if "protective custody" was the real intent, why did General DeWitt and the War Department first develop a program for "voluntary evacuation", weeks before "permanent centers" were ordered, if there were in actuality such a threat to the lives and properties of the coast Nikkei?

In retrospect, in our opinion now, "protective custody" was an afterthought proposition, conceived and advanced after it became clear that there was, in fact, no military necessity for our gross mistreatment and deprivation. "Protective custody" was a fall-back argument that might be found acceptable to the American people as a rationale for the arbitrary evacuation.

7. Didn't Japanese Americans "Cooperate" With The Army?

An honest response to the suggestion that redress should not be provided evacuees because leaders of the Japanese American population urged "cooperation" with the Army's "requests", and almost without exception those of Japanese ancestry on the West Coast complied without protest or violence, demands some rather lengthy explanations.

In the interests of justice and history, however, I as the then National Secretary and Field Executive of the JACL and probably the most vocal advocate of "constructive cooperation and collaboration", feel that such explanations are necessary.

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As noted in an earlier section, following the attack on December 7, 1941, and for almost a month thereafter there was little actual demand for the wholesale evacuation of all Japanese, aliens and citizens alike. We citizens, of course, were aware that our alien parents, since they were never allowed to become naturalized citizens of this, their adopted country, and the land of their children's birth and citizenship, were automatically "enemy aliens" and, as such, might be subject to treatment different from that of the native-born.

But we felt very secure in the integrity of our citizenship and the Constitution of the United States. Not only had we learned in our schools the value of this special status but we were reassured in the first weeks after the Japanese enemy attack by newspaper and other accounts of official and public sentiment.

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On the day after Pearl Harbor, United States Attorney General Francis Biddle, the nation's principal law enforcement officer, emphasized over national radio: "There are in the United States many persons of Japanese extraction whose loyalty to the country, even in the present emergency, is unquestioned. It would, therefore, be a serious mistake to take any action against these people."

The same mood existed in Congress too. On December 10, 1941, Congressman "Bud" Gearhart of California arose in the House of Representatives to say, in response to a message from the JACL in Fresno, California: "Mr. Speaker, it is today my privilege to transmit to the President of the United States a copy of a telegram, the original of which I have just received from an American patriot of Japanese origin (Dr. T. T. Yatabe, the first constitutionally elected National President of the JACL in 1934). Because of the warm assurance of support of our just cause which it contains, I am pleased to inform the membership and the country of its contents."

Two days later, Congressman John Coffee of Washington State asked his colleagues: "As one who has lived as a neighbor to Japanese Americans, I have found these people, on the whole, to be law-abiding, industrious, and unobtrusive. Let us not make a mockery of our Bill of Rights by mistreating these people. Let us, rather, regard them with understanding, remembering that they are victims of the Japanese war machine, as we are, with the making of the international policies of which they had nothing to do."

All informed opinion agreed that, in the early days of the conflict, when shock and resentment over Pearl Harbor was at a maximum, there was relatively little tendency to make persons of Japanese background scapegoats for

the events in the Pacific. "The Open Forum" for December 20, 1941, organ of the Southern California ACLU which was especially sensitive to any acts of discrimination or violence and infringement of civil rights of minorities, reassured us with such words as: "The feelings of many people were highly wrought up, but we are happy to report that little in the way of vigilante action occurred. There were threats, angry words, and name-calling, but very few cases of assault on persons or property."

From up North in Oregon, then journalist later United States Senator Richard Neuberger reported: "...no demonstrations against Japanese residents have occurred. Governor Culbert L. Olson of California asked for tolerance in the state with the largest Japanese population. John Boettiger, the President's son-in-law, wrote in the Seattle Post-Intelligencer, 'Many of the Japanese in America are as loyal as any white Americans, and it would serve only evil purposes to cause them to suffer.'"

Chester Rowell, one of the most respected newspapermen in the country, editorialized December 13, 1941, in the San Francisco Chronicle: "...I am glad to report that, so far, there has been no evidence of anti-Japanese sentiment. For their part, Japanese loyal to the United States are organizing excellently and vigorously. Old-line Americans, under the highest quality of responsible leadership, are doing the same. The actually disloyal we leave to the FBI and the military police, to be dealt with as individuals, like any other disloyal individuals...We who know our California Japanese as individuals know what fine people many of them are."

Even as late January 1942, the Northern California Committee for Fair Play for Citizens and Aliens of Japanese Ancestry (January 26, 1942) was able to comment: "If the infrequency of reports of violence against Japanese and Japanese Americans is a fair criterion, then it must be concluded that these efforts to ensure the position of this minority have been, in the main, successful ...Californians have kept their heads. There have been few, if any, serious denials of civil rights to either aliens or citizens of Japanese race on account of war. The American tradition of fair play has been observed."

****

A careful analysis of the hundreds of newspaper stories which were carried concerning the Nikkei from December 1941 to March 3, 1942, in the two most prominent and influential San Francisco newspapers, the liberal Chronicle and Hearst's San Francisco Examiner, reveal that before January 22 there were only two stories that some type of evacuation should be carried out. Both of these occurred in the ten day period January 1-10, 1942. It was not until the last ten days of January that such suggestions became relatively frequent and were limited almost entirely to political figures bent on stirring up the issue and securing cheap wartime publicity.

This was so obvious that the Chronicle, on February 6, 1942, lectured those who were deliberately fomenting public uneasiness: "The supposed 'hysteria' over enemy aliens and their descendents scarcely exists among the people

themselves...the excitement is visible almost entirely in political and journalistic quarters...They are seeking to capitalize on the supposed excitement of others which is mostly a figment of their own imaginations."

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On February 2, 1942, Governor Olson announced the results of a conference he had held that day with General DeWitt, Thomas C. Clark, the President's personal special representative on Japanese matters and the designated coordinator of enemy alien control for the Far West who later became the Attorney General and an Associate Justice of the Supreme Court, and other officials of the Army and the Justice Department. The Governor indicated that the conference wished to avoid "the extreme action of removing all adult Japanese to and concentrating them in the interior of the United States for the duration of the war."

In other words, as late as February 2, 1942, General DeWitt did not assert that "military necessity" required removal from the West Coast even of enemy aliens. Looking back, we wonder by what stroke of strategic insight did the General discover that a "military necessity" demanded the mass evacuation of citizens and resident aliens, and then only those of Japanese ancestry, in the few days between this conference and his uneasy, hasty messages to the War Department.

On February 3, 1942, Senator Sheridan Downey of California spoke over the NBC radio network in defense of the Japanese population in his state. That he did not then believe that the rights of citizens were endangered is shown by the fact that he spoke about the care that should be exercised toward the alien Japanese.

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Though we at National JACL Headquarters in San Franciso were beginning to hear of political pressure building in Washington for some drastic action against the Nikkei, we continued to be lulled into what was a false sense of security in our citizenship. We had heard that California's Senior Senator and long-time anti-Japan warmonger Hiram Johnson had organized informally the members of Congress from the Pacific Coast states and had appointed two subcommittees, chaired by Senator Rufus Holman of Oregon and Senator Mon Wallgren of Washington to consider plans for increased military strength along the West Coast and to deal with the question of enemy aliens and the prevention of sabotage, respectively.

On February 4, 1942, General Mark W. Clark, representing Chief of Staff George Marshall, and Admiral Harold Stark, Chief of Naval Operations, testified before these subcommittees. Senator Holman started off the meeting by saying that the people on the West Coast were alarmed and horrified as to their persons, their employment, and their homes. General Clark said that he thought the Pacific Coast states were unduly alarmed.

While both he and Admiral Stark agreed that the coastal defenses were not adequate to prevent the enemy from attacking, they also agreed that the chance of any sustained attack or invasion was--as General Clark put it--nil. They believed that sporadic air raids on key installations were a distinct possibility, but they also said that the West Coast military defenses were considerable and in fairly good shape. Admiral Stark made clear that, from the military standpoint, the Pacific Coast necessarily has a low priority compared to Hawaii and the far Pacific.

Neither the General nor the Admiral thought that the Japanese population in the western states constituted a threat, danger, or hazard to the military. They both opposed a mass evacuation of the Japanese as unnecessary and undesirable.

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As can be understandable, in the face of all that we heard and read, we were not as concerned and worried as we should have been, even as early as February 1942. Still, as precautionary measures, we reached two major decisions.

In one, and the most dramatic, we proposed that we Nikkei be allowed to form combat units to fight the Japanese enemy in the Pacific. Our families, especially our parents, would remain behind in their homes as hostage to our good faith and loyalty. The Army turned us down, noting that the United States did not believe in hostages or in segregated units except for Negroes. And the Army feared that in combat against the Japanese enemy, the question of identification could cause considerable confusion.

In the second, we accepted the proposals then being made by many distinguished Americans, such as General David Barrows, Presidents Gordon Sproul of the University of California and Ray L. Wilbur of Stanford University, Dr. Robert Millikin of the California Institute of Technology, John Dewey, Harry Emerson Fosdick, and the like, and urged that the Nikkei be screened individually as to their loyalty, allegiance, and possible contributions to the war effort. We pointed to the British experience with hearing boards, noting that more than 74,000 enemy aliens were processed in less than six months, with less than ten percent found "potentially dangerous". Keep in mind that the British had to deal with enemy aliens, not British subjects, and these enemy aliens were nationals of the nearby countries of Germany and Italy whose armies, navies, and air forces were already posed for an invasion of the Isles, that is at least those of Hitler's Nazis were.

In the case of the Nisei, there were only 46,000 males residing on the Pacific Coast between the ages of 14 and 65, with many of these being too young or too old to be dangerous to American security. In other words, there were actually less than half the number that the British hearing boards disposed of in less than six months, which reduced to about three months the time that United States boards might need to screen the entire potentially dangerous Japanese, aliens and citizens alike.