

April 5, 1989

Testimony of William Hohri,

National Council for Japanese American Redress,

before

Subcommittee on Commerce, Justice, State, and Judiciary,

Committee on Appropriations,

House of Representatives

Mr. Chairman and members of the Committee,

My name is William Hohri. I chair the National Council for Japanese American Redress. Thank you for inviting me to make this statement on appropriations for the Civil Liberties Act of 1988.

My thesis is that restitution addresses both the injuries to the individual and to the Constitution.

The principle underlying this appropriation was stated in the 1987 Report on H.R.442 of the Committee on the Judiciary:

In recommending restitution payments * * * , the Committee, which regularly considers the claims of individuals who have been wronged by the Federal Government, followed precedents in awarding damages to those who have been convicted or detained without due process of law. The Committee concluded that restitution payments demonstrate a tangible commitment by the Government of the United States that such activities should not happen again.

I would add that it is only when restitution reaches an individual victim that an apology to that victim transpires. Exile and detention were suffered by individuals, by Aiko, Asa, Daisuke, Chizu, George, Hannah, Harry, Kinnosuke, Michi, Sam, Sohei, Theresa, and thousands of others. Each has a name and face. Asa, Daisuke, Kinnosuke, and Theresa have died, as have many thousands. I think they understood that apology sometimes takes a long time. Racial hatred takes time to subside. We had to wait for a civil rights movement to occur. The Congress established a commission to conduct hearings, retrieve documents, and write history. We had to wait for a lawsuit to make its way through the courts. Congress needed time to act on redress. But now that the Congress has authorized restitution and apologized on behalf of our nation, we are obliged to realize this apology for each victim with acts of restitution.

Secondly, the fulfillment of this Act is the only means remaining to repair the breach these wartime events inflicted on the Constitution. In our lawsuit of *William Hohri et al. v. United States*, we sought to be heard by the Supreme Court. After five years of adversarial struggle, the issues narrowed to the question of whether the Court's landmark decision in

Korematsu had been influenced by the fraudulent suppression of evidence in the government's brief. In our 1987 ascent to the Court, we were remanded to the Federal Circuit on a technical, jurisdictional question based on the 1982 Federal Courts Improvement Act. On August 5, 1988, we again petitioned to be heard by the Supreme Court. We hoped to have the Court deal with the merits of our case. Five days later, President Reagan signed the Civil Liberties Act into law. Three months later, the Court denied our petition for certiorari. Despite the silence of this denial, it is not unreasonable to infer that the Court was deferring the broad issue of acknowledging error and redressing Japanese-Americans to the new law. The ball is in your court.

While only the Supreme Court can fully address its wartime decisions, the U.S. Congress has enacted law that acknowledges and apologizes for the injustice and provides restitution. This law does help to repair the constitutional breach. But more than enactment is required. The enactment of the Civil Liberties Act in August 1988 was like a wedding ceremony. The marriage must be consummated, its vows upheld. Your committee confronts many budgetary priorities. I can think of none more important than making whole Japanese America and the Constitution of the United States.

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