NC

JOHN J. McCLOY
ONE CHASE MANHATTAN PLAZA
NEW YORK, N. Y. 10005

May 22, 1984

Dear Colonel:

Thank you for your note of May 20. Indeed, I am aware of a number of attacks that have been made on me by those who "never knew Moses" and at a time when the country faced security problems and decisions, of which they were, and still are, totally unaware.

I have heard that there are further hearings to be held both in the Senate and in the House on the Japanese/American relocation matter and I have indicated that I would like to be called to appear at any further Congressional hearings in the strongest protest I can make to the mere thought that we should apologize to anyone or to pay anything by way of "redress" for the steps President Roosevelt ordered to assure the security of the country after the sneak attack by the Japanese on Pearl Harbor on December 7, 1941.

After Pearl Harbor, our next main line of defense was the military installations, particularly the bomber plants on our West Coast where many Japanese descended elements of our population resided. If it had not been for the almost incredible "Miracle of Midway," it was that area that would most likely be attacked as it became overnight a most important factor in our whole country's defense.

The finding of the Commission that the relocation program was the result of racial prejudice rather than a perfectly reasonable and justifiable move taken by the then President was the product of a Commission, largely impelled

by a Japanese/American lobby and the desire, on the part of some, to help "sew up" the Japanese/American West Coast vote. The Commission's objective was not to defend the President's action or to arrive at a justifiable estimate of it. It was really to raid the American Treasury by this charge of racial prejudice before the Commission had ever heard a word of evidence in support of the President's action. I was not called until the close of the hearings. The partisan conduct of the Commission hearings was really disgraceful. When at the end of the hearings I said a word of support for the U.S. or the President, the audience composed in considerable part of potential recipients of payments hissed and booed.

I am sending you, in response to your request, copies of: 1) a communication from me to one who sought to have me appear on a Japanese sponsored television program, as well as, 2) a comment from a retired Colonel of the U.S. Army, named Wiener, which also should be of interest. The fact is, of course, that President Roosevelt was a great humanitarian, devoid of racial prejudice as were General George Marshall, Secretary of War Stimson, Secretary of Navy Knox and Undersecretary of War, former Judge Patterson. None of these men had an ounce of racial prejudice in their bodies and all of them were motivated to secure the safety of the country at a critical time in its history and by nothing else. President Roosevelt, as a matter of fact, was the only one who, in my judgment, had the authority to order the move as he was both President and Commander in Chief of our Armed Forces.

Thank you very much for writing me.

Sincerely,

/tr
Enclosures

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Kaihatsu
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JOHN J. McCLOY
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NEW YORK, N.Y. 10005

April 12, 1984

Dear Ms. Kaihatsu:

I have your letter of April 4. As you are perhaps aware, I have testified already at some length in response to the attempt to further recompense those who were temporarily relocated under the direct orders of President Roosevelt, (who was the only official of the government who could order the step), as a defense to the surprise attack by the Japanese Navy and Air Force on Pearl Harbor, an event which plunged us into the Pacific War and shortly thereafter into the war with Germany. I hope to be given further opportunity to defend the country against what I feel would be a great injustice to the American taxpayer.

The President's action in ordering the relocation of Japanese/Americans from the sensitive military areas of the West Coast was entirely just and reasonable. He did not have the benefit of hindsight to see how we might recover from this devastating attack. It was a calcuated attempt on his part to offset the great menace to our security caused by the sinking of our main Pacific Fleet. The President had ample and, indeed, striking evidence of the existence of subversive Japanese and Japanese/American agencies on the West Coast, poised to frustrate any defense against Japanese acts of aggression.

It is always difficult, if not impossible, to attempt to recreate the conditions as they existed long after the event and the Pearl Harbor attack and its consequences are no exception to this rule. The demand for the removal of the Japanese elements along our military installations on the West Coast after Pearl Harbor was very

great. And there was good reason for alarm. A large part of our Pacific Fleet had been sunk and the installations on Pearl Harbor had been largely destroyed. The attacking forces had disappeared to the North practically unscathed. There was a constant danger of a recurring attack on what remained of our sensitive Western defenses. These mainly consisted of military installations on our West Coast particularly our bomber plants and it was in these areas that our Japanese/American population was largely congested and distributed. With our Pacific Fleet maimed, one of the chief elements of our national security was threatened at a critical time. If the "Miracle" at the Battle of Midway had not occurred, the loss of our second line of defense would certainly have put us in real jeopardy.

As a defense against this threat, the President saw fit to order the relocation of certain elements of our Japanese/American population. They were permitted to go anywhere else in the country they saw fit to go at the expense of the government. They were not "interned." The President insisted that the move be undertaken by the Army as he felt confident in the fact that the Army was best equipped to manage the operation efficiently and the Army's inspection system could be called on to insure that the operation was carried out humanely.

It is never possible to equate fully the inconveniences, sacrifices, dislocations or sufferings which all segments of a population endure in the time of war. I believe it would be most unjust to all Americans, indeed, to all nationalities who suffered as a result of the Japanese sneak attack on Pearl Harbor, to have those who were affected by the President's order be further compensated for their removal from the sensitive military areas of the West Coast in order to protect the interests of the entire country. Generally speaking, I would say that our Japanese/American population benefited from the relocation rather than suffered, as did so many others of our population as a result of the war.

The so-called investigation which sought to obtain unconscionably large unproven lump sums for added compensation for the relocation which had been given when evidence was fresh and witnesses were alive and in a position to testify was really outrageous. No serious attempt was made to recreate the conditions that the

Japanese attack created on the West Coast, nor, the reasonableness of the steps that the President ordered to meet the devastating attack. Instead, a persistent Lobby sought only to support heavy additional unproven payments to the relocatees and this was done at government expense. The Lobby was able to obtain from U.S. taxpayers funds actually to bring a case against the U.S. for what was a perfectly reasonable precaution taken by the President, who did not have the benefit of hindsight, in time of war to protect the security of the whole country. The manner and the atmosphere in which the hearings were held was, as I say, outrageous and a disgrace to our Congressional Investigating Legislative System. It is the manner in which the "investigation" was conducted which should itself be investigated. It is much better for all concerned that Congress refuse these further attempts to compensate for the relocation which President Roosevelt ordered and which provided for our security after the Pearl Harbor attack.

As for myself, I could not and did not originate the order for the relocation of the Japanese/American population following this attack. I could not move a soldier, much less a civilian. I was simply asked to do what I could to assist the Army in carrying out the Commander in Chief's order. I urged that a civilian agency be put in charge of the relocation process as promptly as possible so that the Army could concentrate on the conduct of the war itself.

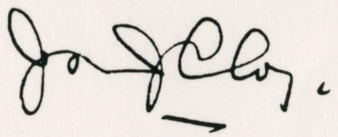
Our Japanese/American population was generally loyal. This was proven by a number of facts including the splendid record of the 442nd Combat Team, a unit I urged the Army to form. But, reasonable precautions had to be taken against those who might not be. What was needed on the West Coast after the Pearl Harbor attack was to protect against the consequences of the disaster and to deter any further acts such as the Japanese government was guilty of. I cannot prove it but I firmly believe that with the knowledge we now have and which, at the time, was available to the President of the U.S. of the existence of subversive agencies along the West Coast, (I refer particularly to information revealed by MAGIC), that the relocation method against the Japanese was a good reason why serious acts of sabotage did not occur on the West Coast after the President's order was given. In short, I believe it was the effectiveness of the relocation order which added to the

security of the West Coast and indirectly to the security of the country as a whole.

It is, of course, true that many of our citizens were never adequately compensated for the sacrifices they had to make as a result of the Pearl Harbor attack. Certainly not those whose bodies are still emtombed in the sunken ships at Pearl Harbor or those American citizens who were killed in Italy with the 442nd Combat Team.

If there are any further hearings to be held on this subject, I hope in all fairness and in good conscious that a free and objective opportunity be given to those who would wish to support this entirely just order which President Roosevelt issued for the relocation of certain segments of our Japanese/American population on the West Coast after the disasterous bombing of Pearl Harbor by the then Japanese Government.

Sincerely,



/tr

Ms. Jane B. Kaihatsu
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FREDERICK BERNAYS WIENER
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1 May 1984

Dear Mr. McCloy:

Yes, it was high time that someone undertook to write your biography, and it is indeed a high personal tribute that both of your prospective biographers have been awarded Guggenheim Fellowships for that purpose; see pages 4 and 11 of the inclosed pamphlet.

And, just to keep you up to date on the Japanese relocation and its ongoing sequel, I also inclose, for your very private information, a letter I have this day sent Senator Moynihan of New York, in which are pointed out the major flaws in the Relocation Commission's process, and the more significant failings of its Report. A bill is now pending before the Senate Committee on Governmental Affairs to accept the findings and to implement the recommendations of that Report, and it was that measure to which my letter to the Senator was addressed.

That communication is 8 pages long, but just on page 2 you will learn, what I had forgotten when you and I corresponded earlier, that Ex-Justice Arthur J. Goldberg had earlier expressed himself, before a Committee of Congress, as strongly opposed to the relocation program; chapter and verse are duly cited. Talk about a stacked Commission!

(You may wonder how the Guggenheim pamphlet reached me. Well, back in 1962 I was fortunate enough to receive one of those Fellowships, with the result that I have been on their mailing list ever since. My work under the Fellowship produced a book, Civilians Under Military Justice, published by the University of Chicago Press in 1967, which demonstrated that the result in Reid v. Covert on rehearing, 354 U. S. 1, and the sequel cases in 361 U. S., to the effect that civilians could not be tried by courts-martial in time of peace, had been anticipated by British rulings in the XVIII Century on the same point.)

With cordial regards,

Yours very sincerely,

Fritz Wiener

Hon. John J. McCloy,
One Chase Manhattan Plaza,
New York, N. Y. 10005

2 Incls.:
1--Guggenheim Fellowships pamphlet
2--Copy of ltr to Sen. Moynihan

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1 May 1984

Hon. Daniel Patrick Moynihan
United States Senate
Washington, D.C. 20510

Re: S.2116, 98th Cong., 1st Sess.

Dear Senator Moynihan:

A number of weeks ago, when you said on a David Brinkley program that "Everyone is entitled to his own opinion, but no one is entitled to his own facts", I all but rose up from my chair and cheered.

In view of that fundamental approach on your part, I am certain that, when you undertook to co-sponsor the above-entitled bill, which proposes "To accept the findings and implement the recommendations of the Commission on Wartime Relocation and Internment of Civilians", you were yourself completely unaware that the Report of that Commission, far from being either accurate or complete as the bill proposes to declare, was in actual fact a deplorable exercise in mendacious revisionism.

The purpose of this letter, accordingly, is to alert you to the most significant misstatements and omissions in that Commission's Report. Here I will summarize, as briefly as the subject permits, the Report's salient failings.

First. FLAWED COMMISSION PROCESS.

The Relocation Commission's work was irretrievably marred and spoiled from the outset, because its operations were slanted and biased in four separate respects.

I. The terms of reference were stacked. The Commission was directed by the Congress (Act of July 1, 1980; 94 Stat. 964) to review the impact of the wartime relocation "on American citizens and permanent resident aliens". In actual fact, of the 112,353 individuals relocated, some 40,869, or more than 36%, were aliens born in Japan; so that, when the United States declared war on Japan on the day after the Pearl Harbor attack, all of that latter group became enemy aliens.

Here in the United States, ever since the Alien Enemy Act of 1798 -- not to be confused with the Alien Act of the same year; neither Jefferson nor Madison, who wrote the Kentucky and Virginia Resolutions because of the Alien Act and the Sedition Act, ever sought repeal of the Alien Enemy Act -- ever since 1798 it has been well settled in this country, by administrative action and judicial decision, that the resident enemy alien is constitutionally subject to summary arrest, internment and deportation whenever a declared war exists between his country and ours. That rule was twice reaffirmed by the Supreme Court shortly after the end of World War II. Ludecke v. Watkins, 335 U.S. 160 (1948): Johnson v. Eisentrager, 339 U.S. 763 (1950).

As the act creating the Relocation Commission passed through the Congress, not a word was said by its sponsors, nor by anyone else, of the foregoing rule of law nor were those recent decisions cited. And the same deafening silence continued while the Relocation Commission was at work; neither the Supreme Court cases just mentioned, nor the principle justifying internment of enemy aliens that those cases confirmed, can be found anywhere in the Relocation Commission's Report.

Was it fair, was it honest, to denounce governmental action taken more than forty years ago as unjustified, without once disclosing, either to the Congress or to the public, that, as to over one third of the individuals affected, such action was clearly in accordance with settled law? I suggest that this obviously deliberate and calculated omission falls well within your disapproval of reliance on one's own facts.

II. The Commission itself was stacked. Of the nine members of the Commission, a majority of five were experienced former public servants whose general outlook was predictable. Indeed, once the Commission's composition was announced, it was perfectly clear to any reasonably well-informed individual what that body's conclusions would be.

More than that, one of its members had earlier expressed a settled opinion before a Committee of Congress on the very subject that he was (presumably) to consider open-mindedly and impartially as a Relocation Commissioner. Here is what Ex-Justice Arthur J. Goldberg said about the Japanese relocation in 1970: "a black page in our history"; "a horrendous thing"; "we made that mistake, and . . . a majority of the Supreme Court at the time failed to condemn the mistake." Hearings Relating to Various Bills to Repeal the Emergency Detention Act of 1950, House Committee on Internal Security, 91st Cong., 2d sess., pp. 2931, 2932, 2933.

How can the Congress -- or anyone else for that matter -- place any trust in the conclusions now reached by the Relocation Commission?

III. The Commission's staff was stacked. Of the 33 named staffers listed in the Commission's Report, 13 have Japanese surnames, and one of those 13 is married to still another staffer. Thus, nearly 40% of the staff preparing the Commission's Report were predisposed against the wartime relocation. And one of the Japanese-American staffers, in addition to working on the Report, assisted the Commission in another capacity by appearing before them as a witness.

Again, how can anyone have confidence in their work product?

IV. The conduct of the hearings was stacked. The conduct of the Commission's hearings was, to speak mildly, a disgrace to the fact-finding process. According to former Assistant Secretary of War John J. McCloy, "Any time anyone tried to say anything slightly favorable to the United States, they were greeted with hoots, hisses and feet stamping by an ethnic Japanese claque which made it a point to attend all the hearings." The foregoing is quoted, by permission, from a private letter. A more detailed account to the same effect will be found in a letter from Mr. McCloy to Senator Grassley of Iowa, July 20, 1983: see Japanese American Evacuation Redress, Hearing before Subcommittee on Administrative Practice and Procedure, Senate Judiciary Committee, 98th Cong., 1st sess., on S.1520, at pp. 483-484.

In short, four elements combined to render impossible either the conduct of an impartial inquiry or the preparation of an objective report. All was slanted, biased, prejudiced, and stacked against the ascertainment of truth: the terms of reference, the composition of the Commission, the composition of the Commission's staff, and the conduct of the Commission's hearings.

Second. FLAWED COMMISSION REPORT

In this necessarily long letter, there is of course no room for details. But every factual assertion in this communication can be fully documented, and I stand ready to supply all such documentation on request. Here there is space only for the essentials, and the only additional matter now submitted is an enclosure setting forth my qualifications for undertaking the present critique.

I. Conclusion as to Loyalty. The Commission asserted (Rep. 28) that "There was no evidence that any individual American citizen was actively disloyal to his country."

That assertion is demonstrably false.

A. Two Japanese-Americans were duly convicted of treason (Kawakita, 343 U.S. 171: D'Acquino (Tokyo Rose), 192 F.2d 338). Another, Harada, committed treasonable acts on the Hawaiian island of Nihau, as the Commission itself was well aware (Rep. 430-31 n.14).

B. Some 8,000 individuals out of those relocated voluntarily opted for repatriation to Japan.

C. Of the Japanese-Americans of military age in the relocation camps, only 6% volunteered for military service. Those in the 442d Regimental Combat Team, whose gallantry everyone admires and which cannot be denigrated for a moment, were an exception. They assuredly did not represent a majority among the Japanese-Americans.

D. Over a quarter of the Japanese-Americans in the relocation camps refused to answer the loyalty questions, which had been submitted to them in order to determine individual loyalty -- a step for which there had originally been no time.

E. Many of those who refused to declare loyalty to the United States were sent to the camp at Tule Lake. There many pro-Japanese and anti-American individuals undertook a campaign of violence to force other Japanese-Americans to execute certificates renouncing their American citizenship. There were beatings, stabbings, and at least one homicide. In all, over 5,000 citizens, including more than 70% of the Tule Lake Japanese-Americans, renounced their American citizenship. But the Commission's account of the Tule Lake reign of terror (Rep. 206-212, 247-251) falls far short of revealing the facts judicially found (Acheson v. Murakami, 176 F.2d 953) -- a decision which, characteristically, the Commission never cites.

F. Also passed by without mention by the Commission is the instance of the Kiyama family. This couple and their two small children were, all of them, born in the United States. The parents were deemed so pro-Japanese and so anti-American that they were removed to Tule Lake, where the parents were among the leaders in the campaign of violence and fear that forced thousands to renounce American citizenship.

As late as December 1944, both Kiyamas said that their loyalty was still with Japan; and on September 27, 1945, which was after V-J Day, the husband declared that "I have always been loyal to Japan during the war and I have no intention to change my loyalty to any country at this time." Accordingly, all four were repatriated to Japan in 1945-46 in accordance with their expressed wishes.

Later, however, both Kiyamas had the gall to return to the United States to reclaim their American citizenship. But there, after some 12 years in the courts (258 F.2d 109; 268 F.2d 110; 291 F.2d 10; 368 U.S. 866), the Kiyama's claims to American citizenship were denied.

In a similar case, a United States Court of Appeals said that "The record shows the certainty that many of the 4,315 plaintiffs who voluntarily renounced [their American citizenship] were disloyal to the United States." McGrath v. Abo, 186 F.2d 766, 771; 342 U.S. 832.

No reader of the Relocation Commission's Report will ever learn of those instances.

II. Quality of the Report. Careful examination of that document -- for which, as indicated, I can supply full documentation -- reveals that it is a sloppy, indeed a slovenly, piece of work. It is full of demonstrable mistakes of law, and at nearly every critical point it relies on secondary evidence. Works critical of the relocation are freely cited, but the original references -- statutes and judicial decisions -- are rarely mentioned. Thus, on the critical question of the percentage of Japanese-Americans who held dual citizenship, where there is a vast disparity in the figures available, no text of any Japanese laws on citizenship is ever set forth.

III. Was the Relocation the Result of Racism? The Report answers this query with a resounding affirmative, incorporating every view about the impulses and motives impelling the relocation program that has been formulated in the more than forty years since it was underken.

In a work consistently relied on by the Commission, ten Broek et al., Prejudice, War and the Constitution, the authors rejected two of the earlier views, one that the relocation was undertaken because of economic motives, viz., to be rid of Japanese business competition, the other that the relocation was a response to public opinion on the west coast, where all three Congressional delegations were unanimous in urging evacuation. No matter; the Commission revived both of these theories that ten Broek had rejected.

The latter concluded that the true cause was the stereotype of "the wily Oriental" -- but never went on to explain how that view was consistent with the reported instances, duly noted in the book, of a Black, a Filipino, and a Chinese-American each attacking individuals of Japanese ancestry.

Here, of course, we trench on matters of opinion. But both ten Broek and the Commission resolutely refuse to accept what by a strong preponderence of the evidence is probably the only true view, namely, that, following the unprovoked attack on Pearl Harbor, which took place at the very moment that the Japanese representatives were negotiating in Washington with Secretary of State Cordell Hull, virtually all Americans became suffused with loathing and indeed hatred of everybody and everything Japanese. In World War II there was accordingly no need to whip up hatred of the enemy such as George Creel did with such success in World War I, after the United States was at war with Imperial Germany.

As I say, here we deal with what may ultimately remain a question of opinion. But to undertake to analyze the basic impetus behind the Japanese relocation without considering the contemporary effect of the day that continues to live in infamy, as the Commission did, is not only to present Hamlet without the Prince of Denmark, it is to form an opinion on the basis of very selective and hence self-assembled facts.

IV. Was the Supreme Court Wrong in 1943 and 1944? The Report insists, with considerable acrimony, that the relocation was unconstitutional, this despite the Supreme Court's contrary rulings, which sustained the relocation, in Hirabayashi (320 U.S. 81) and Korematsu (323 U.S. 214).

There may be merit in being more papist than the Pope, more royalist than a king, or more constitutionally minded than the Supreme Court of the United States. But if the Supreme Court is to be assailed for its decisions, then every critic owes it to that tribunal, as well as to his audience, to explain wherein the Court was mistaken.

As Judge Learned Hand wrote, ". . . while it is proper that people should find fault when their judges fail, it is only reasonable that they should recognize the difficulties. . . . Let them be severely brought to book, when they go wrong, but by those who will take the trouble to understand them."

The Commission's Report fails that test. Nowhere therein can the reader find any discussion of the reasoning on which the Supreme Court rested its Hirabayashi or Korematsu decisions. All he can discover is the Commission's denunciation of their results.

Never once does the Commission summarize the Court's reasoning, much less set it forth. Thus, once again, the Commission's conclusion rests on its very own and carefully picked-over set of facts.

V. Hindsight versus Foresight. One of the Supreme Court's earliest cases on the reasonableness or otherwise of military action was Mitchell v. Harmony, 13 How. 115, 135, decided in 1852. There the question was whether, during the pendency of the War with Mexico, Colonel Mitchell was justified by military necessity in seizing property beloning to Harmony, a trader.

The Court declared that "the state of the facts, as they appeared to the officer at the time he acted, must govern the decision. . . . And, if with such information as he had a right to rely upon, there is reasonable ground for believing that the peril is immediate and menacing, or the necessity urgent, he is justified in acting upon it; and the discovery afterwards that it was false or erroneous, will not make him a trespasser."

It is typical of the Commission's slipshod work that neither this decision nor the principle that it lays down receives mention in its Report.

But if, notwithstanding, it is permissible in passing judgment on what was done more than forty years ago to look to what was then the future, then the facts later disclosed amply justified the action taken:

We now know, from the treason cases, from the Tule Lake reign of terror, from the voluntary repatriations, and from the attitude of persons like the Kiyamas, that there were many, many Japanese-Americans who were indeed actively disloyal to the United States.

We knew that many Japanese-Americans had dual nationality. We know now that many were taught in their language schools that "You must remember that only a trick of fate has brought you so far from your homeland, but there must be no question of your loyalty. When Japan calls, you must know that it is Japanese blood that flows in your veins." (Rep. 39, quoting Senator Inouye about his own school experiences in 1939.)

This alone would explain the large percentage of Japanese-Americans who waffled when the loyalty questions forced them to stand up and be counted, and why even today they -- and the Commission -- denounce the loyalty program, which was intended to help empty the relocation camps, as "divisive".

Having now all of those facts before us, which in 1942 were only strongly suspected, is it either fair or honest, more than a generation later, to denounce the entire relocation program as unreasonable, and as based on racism rather than military necessity?

Of course there are always two widely differing views about when firm action must be taken. In the criminal law, one view is that the only justification for requiring bail is to insure the accused's presence at the trial. The other is that bail be denied in appropriate instances in order to protect the community, lest the accused burgle once again while he is temporarily free. The former view is of course responsible for the revolving-door use of bail that continues to render so many of our cities unsafe.

In the law of treason, it was argued in an old case that, inasmuch as the defendant had not been shown to have done actual harm to the king's ships, he could not be guilty of treason. But the court rejected that argument, saying, "And after this kind of reasoning they will not be guilty until they have success; and if they have success enough, it will be too late to question them." Trial of Capt. Vaughan, 13 How. St. Tr. 485, 533.

Whether the soft or hard line is preferable is, without doubt, a matter of opinion. Whether the military authorities should have left in place all persons of Japanese descent on the west coast until actual acts of espionage or sabotage on their part had occurred is also a matter of opinion. But no credible view on that point can ever be reached without all of the facts.

All too plainly, the Commission's Report does not include all of the facts relevant to passing judgment on the action taken by the President in 1942, then ratified by Congress, and later sustained by the Supreme Court.

Third. THE REPORT'S FLAWS WOULD BE CONFIRMED AND COMPOUNDED WERE S.2116 TO BECOME LAW

Flawed, inaccurate, and partial as the Commission's Report plainly is, its faults would be confirmed and compounded if S.2116 were to be passed by Congress in its present form.

I. S.2116 as drawn craftily ignores documented instances of disloyalty on the part of numerous Japanese-Americans. As has been pointed out, the Commission's assertion (Rep. 28) that "There was no evidence that any individual American citizen was actively disloyal to his country" is demonstrably untrue in the face of proof of treasonable acts by Harada, Kawakita, and Tokyo Rose.

Those who drafted S.2116 were too astute to be guilty of a similar misstatement. Accordingly, they craftily eliminated those three traitors by proposing that the Congress find (Sec. 1(a)) that --

> "(2) the internment of individuals of Japanese ancestry was carried out without any documented acts of espionage or sabotage, or other acts of disloyalty by any citizens or permanent resident aliens of Japanese ancestry on the west coast;"

After all, Harada's treason had its locale in Hawaii, Kawakita's and Tokyo Rose's in Japan; not one of those three was guilty of treason committed on the west coast.

Similar adroit draftsmanship conceals from the reader that the "permanent resident aliens of Japanese ancestry" were enemy aliens in 1942, and thus could lawfully be interned without any proof of hostile action, under the Enemy Alien Act of 1798, and the later rulings to that effect in Ludecke v. Watkins and Johnson v. Eisentrager, mentioned on pages 1-2 of this letter.

The last clause of the quoted subsection, however, moves from tricky draftsmanship to palpable falsehood; there the statement that no documented acts of disloyalty other than sabotage or espionage were committed by persons of Japanese ancestry on the west coast is simply not true. All too plainly, the beatings and the stabbings and the threatened violence that forced thousands at Tule Lake to renounce their American citizenship were ongoing acts of disloyalty to the United States. A single reading of the judicial findings in Acheson v. Murakami , 176 F.2d 953 -- which, as shown above, nowhere appear in the Commission's Report -- demonstrate the utter falsity of the final clause of Section 1(a)(2). Were Congress to enact that provision, it would be concocting "facts" that are simply without foundation.

II. S.2116 undertakes to pay compensation to thousands not entitled thereto on any footing. Under Sections 201(1) and 205(1) of S.2116, every person of Japanese ancestry who was relocated in 1942 will be entitled to be paid $20,000 as restitution for having been moved, and the Attorney General is bound to find where all such persons now live.

This would mean that the United States must make payment to the following individuals:

1. The thousands of enemy aliens who by settled rules of law were subject to internment once war was declared on the day after the Pearl Harbor attack, because by then they were enemy aliens subject to internment for that reason alone.

2. The 8,000 individuals who after the war opted for repatriation to Japan.

3. The 94% of those who were relocated and, being of military age, refused to volunteer for military service.

4. The 25% of those relocated who refused to answer the loyalty questions.

5. All those who participated in the Tule Lake campaign of violence that resulted in thousands of Japanese-Americans renouncing American citizenship.

And 6, those who, like the Kiyamas, were held to have been disloyal to the United States after full and extended judicial hearings.

Significantly, the single thread uniting all of the foregoing six obviously unworthy groups is ethnic origin: All were of Japanese ancestry.

Can it seriously be pretended that the individuals constituting those six groups have any claim whatever on the largesse of the American people forty years after the event? Yet, under S.2116 as it stands, every one of those persons now living will receive $20,000.

Accordingly, passage of S.2116 in its present form would involve this repulsive paradox, that a law denouncing "racial prejudice" (Sec. 1(a)(4)) actually constitutes a triumph of ethnicity over both enemy status and active disloyalty to the United States.

Finally, BY WAY OF CONCLUSION, Section 1(a)(1) of S.2116 finds the Relocation Commission's Report to have been both accurate and complete. From what has only been summarized in the above rather lengthy communication, it is all too clear that this Report is both incomplete and grossly inaccurate.

It follows that, should S.2116 in its present form become law, that enactment could only be characterized, in the words of a notable and outstanding Seventeenth Century American, as "a solemn public lie".

In view of your own expressed insistence that no one is entitled to his own facts, I would therefore strongly urge you to withdraw your present co-sponsorship of S.2116.

Respectfully,

Frederick Bernays Wiener

Frederick Bernays Wiener

Enclosure:
Writer's Resume and Qualifications

FBW/erl