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STATEMENT OF HENRY KANE, BEAVERTON, OREGON
SEPT. 9, 1981, SEATTLE, WASHINGTON, BEFORE THE
COMMISSION ON WARTIME RELOCATION AND INTERNMENT OF CIVILIANS

Madam Chairman and Members of the Commission:

Thank you for this opportunity as an attorney and private citizen to suggest that the Commission make the following findings and recommendations:

(1) Japanese-American internees served their country during the crisis period of World War II by their relocation and internment;

(2) Internment of resident aliens of Japanese citizenship during the war with Japan was constitutional under the U.S. Constitution, and Japan and other nations recognize the right to intern enemy aliens during time of war;

(3) Relocation and internment was based in part on geography, because Japanese-Americans residing outside the Pacific Coast states were not relocated and interned;

(4) The Supreme Court of the United States has upheld the relocation and internment at issue, and those decisions are binding as a matter of law on the Commission;

(5) Thirty-nine years after the event it is not for the Commission to second-guess the decision of the Congress and the Executive to relocate and intern;

(6) The Commission does not have the military expertise to determine whether the military made a reasonable and/or correct decision to relocate and intern;

(7) Reject any "reparation," "damages," "redress," or monetary compensation for internees and their descendants unless all other Americans who suffered during World War II, and were not compensated, or inadequately compensated, are similarly compensated, and

(8) Reject any finding or concept of "national guilt" for the relocation and interment during the dark days of World War II.

I speak only for myself, but submit that my views are shared by the vast majority of those who served and lived in the United States during World War II.

My background includes non-combat service in the U.S. Army in 1945-56, service as a field and then staff correspondent on Pacific Stars & Stripes, the U.S. Army daily newspaper published in Tokyo, Japan, and residence in Japan from October of 1945 to the summer of 1947 as a military and civilian member of the U.S. Occupation Forces.

Among the captured Japanese government documents I read in translation was one dealing with the possible occupation of Hawaii as part of the Dec. 7, 1941 attack on Pearl Harbor.

Only those who lived through the early days of World War II or were intimately aware of the U.S. military posture can have an adequate appreciation of the situation that led to the relocation and internment.

The perilous U.S. situation was stated in part in Hirabayashi v. United States, 320 U.S. 81, 94 (1943):

"The actions taken must be appraised in the light of the conditions with which the President and Congress were confronted in the early months of 1942, many of which since disclosed, were then peculiarly within the knowledge of the military authorities. On December 7, 1941, the Japanese air forces had attacked the United States Naval Base at Pearl Harbor without warning * * *. Simultaneously or nearly so, the Japanese attacked Malaysia, Hong Kong, the Philippines, and Wake and Midway Islands. On the following day their army invaded Thailand. Shortly afterwards they sank two British battleships. On December 13, Guam was taken. On December 24th and 25th they captured Wake Island and occupied Hong Kong. On January 2, 1942, Manila fell, and on February 10th Singapore, Britain's great naval base in the East, was taken. On February 27th, the battle of the Java Sea resulted in a disastrous naval defeat to the United Nations. By the 9th of March Japanese forces had established control over the Netherlands East Indies; Rangoon and Burma were occupied; Bataan and Corregidor were under attack.

"Although the results of the attack on Pearl Harbor were not fully disclosed until much later, it was known that the damage was extensive, and that the Japanese by their successes had gained a naval superiority over our forces in the Pacific which might enable them to seize Pearl Harbor, our largest naval base and the last stronghold of defense lying between Japan and the west coast. That reasonably prudent men charged with the responsibility of our national defense had ample ground for concluding that they must face the danger of invasion, take measures against it, and in making the choice of measures consider our internal situation, cannot be doubted."

The Supreme Court held at 320 U.S. at 94-95:

"The challenged orders were defense measures for the avowed purpose of safeguarding the military area in question, at a time of threatened air raids and invasions by the Japanese forces, from the danger of sabotage and espionage."

The above quoted findings understated the serious military situation at the time. The U.S. Navy high seas fleet of battleships at Pearl Harbor was sunk or damaged, e.g., the Arizona. Shortly after the start of World War II a Japanese submarine shelled the northern Oregon coast near the mouth of the Columbia river.

The Japanese proved their ability to invade the U.S. by their successful invasion of the Aleutian Islands of what is now the State of Alaska.

And as late as 1945 a trans-Pacific Japanese balloon bomb exploded on the Southern Oregon coast, killing a Sunday school teacher and some five children.

The Supreme Court noted at 320 U.S. 96:

"In the critical days of March, 1942, the danger to our war production by sabotage and espionage in this area seems obvious. The German invasion of the Western European countries had given ample warning to the world of the menace of the 'fifth column.' Espionage by persons in sympathy with the Japanese Government had been found to have been particularly effective in the surprise attack on Pearl Harbor."²

* * *

"2. See 'Attack upon Pearl Harbor by Japanese Armed Forces,' Report of the Commission Appointed by the President, dated January 23, 1942, S.Doc. No. 159, 77th Cong., 2d Sess., pp. 12, 13."
(emphasis added)

The Commission may have received the impression from some prior speakers that all internees were loyal to the United States, hence their relocation and internment was improper.

Any such impression is improper and the Commission should state that significant numbers of internees were of questionable loyalty at best.

Korematsu v. United States, 323 U.S. 214, 219 (1944) noted that not all internees gave unqualified allegiance to the United States:

" * * * That there were members of the group who retained loyalties to Japan has been confirmed by investigation made subsequent to the exclusion. Approximately five thousand American citizens of Japanese ancestry refused to swear unqualified allegiance to the United States and to renounce allegiance to the Japanese Emperor, and several thousand evacuees requested repatriation to Japan.²

"² Hearings before the Subcommittee on the National War Agencies Appropriation Bill for 1945, Part II, 608-726; Final Report, Japanese Evacuation from the West Coast, 1942, 309-327; Hearings before the Committee on Immigration and Naturalization, House of Representatives, 78th Cong., 2d Sess., on H. R. 2701 and other bills to expatriate certain nationals of the United States, pp. 37-42, 49-58." (emphasis added)

I came across a number of those ex-U.S. citizens while a member of the U.S. Occupation Forces in Japan. We had no use for them: they had sat out the war while others served and died and because they had bet that Japan would win.

Because of the claim that the evacuation was prompted by racial prejudice, I note that one of those ex-U.S. citizens I met in Japan evidenced prejudice by referring to the City of

New York, with a sneer, as "Jew York," with emphasis on the letter "J." The point is that prejudice is not limited to whites. In Japan, for example, Japanese discriminate against the "Eta" and resident Koreans.

Some of the testimony the Commission has received supports payment to internees and their descendants for the "crime" of relocation and internment.

Speaking as an experienced attorney whose practice includes a partial victory in the U.S. Supreme Court, I state as a matter of fact and law that the United States committed no "crime" that compels, merits or suggests "redress" or "reparation."

Certainly, there is no need to consider award of "redress" to interned resident aliens.

Nor should there be "redress" to interned U.S. citizens of Japanese ancestry because their relocation and internment was one of the burdens of citizenship.

Korematsu v. United States, supra, states the principle at 323 U.S. at 219-220:

"We uphold the exclusion order as of the time it was made and when the petitioner violated it. * * *
In doing so, we are not unmindful of the hardships imposed by it upon a large group of American citizens. * * * But hardships are part of war, and war is an aggregation of hardships. All citizens alike, both in and out of uniform, feel the impact of war in greater or lesser measure. Citizenship has its responsibilities as well as its privileges, and in time of war the burden is always heavier.

(no paragraph)

Compulsory exclusion of large groups of citizens from their homes except under circumstances of direst emergency and peril, is inconsistent with our basic governmental institutions.

(no paragraph)

But when under conditions of modern warfare our shores are threatened by hostile forces, the power to protect must be commensurate with the threatened danger." (emphasis added)

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Thus, it was noted in Hirabayashi, supra, 320 U.S. at 99:

" * * * If it was an appropriate exercise of the war power its validity is not impaired because it has restricted the citizen's liberty. Like every military control of the population of a dangerous zone in war time, it necessarily involves some infringement of individual liberty, just as does the police establishment of fire lines during a fire, or the confinement of people to their houses during an air raid alarm--neither of which could be thought to be an infringement of constitutional rights. * * * " (emphasis added)

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Some of those who testified say the wartime internment was unconstitutional. My response is to quote Korematsu, supra, 323 U.S. at 224:

" * * * the validity of action under the war power must be judged wholly in the context of war. That action is not to be stigmatized as lawless because like action in times of peace would be lawless. * * * " (Frankfurter, J., concurring) (emphasis added)

Time does not permit refutation of every claim made by supporters of a raid on the U.S. Treasury, but allow me to address the issue of internees who received no compensation or inadequate compensation for their property.

There appears to be tunnel vision concerning that aspect.

I respectfully submit that the bulk of the internees suffered no more, and many may have suffered less, than many other American citizens caught up in World War II.

A number of your prior witnesses appear to be unaware that during World War II the federal government shut many businesses and industries as unessential to the war effort. Others closed for lack of business caused by the war.

To my knowledge, the federal government did not compensate the owners for their loss, temporary or permanent. And many did not reopen after the war.

Nor did the government compensate those who closed their businesses, or sold them at a fraction of market value, because of their imminent entry into military service.

Among the many other non-interned Americans who suffered indignities, loss of civil rights, economic rights, and other personal and business loss and hardship were the following:

- (a) persons whose land was condemned for military use;
- (b) servicemen who suffered the indignities, hardship and injustice of military service and enemy action, including armed guards to keep them in camp;
- (c) women, now in their 50's and 60's, who lost their loved ones in combat and consequently never married, and
- (d) the widows, orphans and families of dead servicemen.

A complete list of non-interned Americans who suffered uncompensated or inadequately compensated loss and hardship, through no fault of their own other than to live during World War II, would be endless.

DOES THE COMMISSION PROPOSE TO COMPENSATE OR REDRESS THOSE LOSSES?

The internees who sat out World War II as civilians should count their blessings. They were so much more fortunate than those who fought and died or returned as hopeless cripples.

The Commission may have been told of conditions at the assembly and/or relocation camps, and I have examined photographs of a number of them.

They did not look too different from a number of the state-side Army camps that sheltered me.

And to a World War II GI in a South Pacific island foxhole, those facilities were the equivalent of GI heaven.

Those who wish to raid the U.S. Treasury have formed groups to advocate pleas for as much as \$3 billion "redress."

I recommend that you reject those pleas.

And any member of Congress who supports such "reparation" other than one from a Japanese-American district, may suffer the same electoral fate as many of the senators who voted to give away the Panama Canal - rejection by the voters.

Thank you for the opportunity to present these views.


Henry Kane