

Nashville, C. & St. L. Ry. v. Walters, 294 U.S. 405 (1935):

The Court held that the fact that an underpass would promote safety, as found by the State court, was not sufficient to sustain the validity under the due process clause of the imposition on a railroad of the cost of the underpass and that the arguments of the railroad as to the existing highway facilities, the depletion of the railway's revenues, etc., were also relevant. The Court remanded the case for findings with respect to these facts, stating that it was particularly important for the State Court to make such findings initially, since it might have judicial knowledge of local conditions which would not be possessed by the Supreme Court (pp. 428-433).^{11/}

CONCLUSION

As to the facts in point with respect to the Japanese program, it appears that all of them could be established to the Court's satisfaction without the introduction of evidence and ~~more~~ that even the citation of documentary authority would not be necessary with respect to many of them; however, it is obvious that ^{as} much documentary authority as is available should be used. It would also appear that the facts could be sufficiently established, without the use of evidence, so that the Court would refuse any offer of evidence to contradict these facts. It must be borne in mind that with respect to the existence of ties to Japan, methods of inculcating loyalty to Japan, the existence of disloyalty, espionage, civil disorder, etc., it should only be necessary to establish the fact that the civil or military authorities had a reasonable basis for a belief in the existence of these matters, rather than the fact that such phenomena actually existed. The reports of the Tolan Committee include most

^{11/} In Smith v. Texas, 233 US 630 (1914) the Court found that a state statute prohibiting persons from acting as railroad conductors unless they had specified prior experience violated the due process clause, pointing out that if it could not "take judicial knowledge" of the fact that other experience would also create a qualification for this work, the testimony established that fact.

of the necessary material and the Court, by virtue of its frequent use and citation of Congressional Committee reports, would be likely to consider its statements as authoritative.