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Added to
Mr. Collins
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STATEMENT OF WAYNE M. COLLINS

In early 1942 U.S. citizens of Japanese ancestry and alien family members, being excluded from the West Coast by military zoning and some 108 military "civilian exclusion orders" issued by Lt. General John L. DeWitt, were ordered into various Assembly Centers. Thereafter they were evacuated to various War Relocation Authority Centers under a series of freezing and detention orders, all issued pursuant to sundry Proclamations, Executive Orders 9066 and 9102, all issuing under the authority of and being referable to the Alien Enemy Act (50 U.S. code, Sec. 21 et seq.), and also being implemented by Public Law No. 503 of March 24, 1942. This treatment of U.S. citizens of Japanese ancestry originally was opposed by the Attorney General but shortly before their evacuation was put into effect Attorney General Biddle, to the surprise of his staff, capitulated to the demands of the War Department and acquiesced therein.

The citizens finally were confined in some 10 such W.R.A. Centers, along with alien family members, simply because of their Japanese ancestry. Hundreds of like citizens of Japanese ancestry were serving in our military forces during this general evacuation. Before this general evacuation was completed in excess of 1,000 such citizens were serving in our armed forces and, in course of time, several thousand additional Nisei were so serving in the 110th Infantry Battalion and later the 442nd Regiment in Hawaii, the Far Eastern waters, and later in Italy. Those Nisei soldiers represented practically each family of Japanese origin still incarcerated in such Centers. The fact, however, made no difference to Lt. General DeWitt on the West Coast who wished every person of Japanese ancestry to be evacuated into confinement.

Eventually some 18,000 citizens and aliens of Japanese origin (such aliens then being ineligible to U.S. citizenship) were confined in the Tule Lake War Relocation Center, Newell, Modoc County,

California, a few miles south of Klamath Falls. These interned persons included a goodly number of Army veterans who were within the military district of Lt. General John L. DeWitt and, in consequence, had been released from active duty and were compelled to enter such Centers. Life was very dreary for these unfortunate persons and their future looked quite hopeless for detention was for an indefinite period. Congress had foreseen that their exclusion from the West Coast, followed by confinement for an indefinite period (duration of the war or longer) would lead to their mass removal to Japan and eventually to the withdrawal of their U.S. citizenship. (See H.R. 1911, pg. 16, printed March 19, 1942.)

Many alien family members (parents, etc.) later were informed and led to believe that they would be detained by the WRA for ultimate removal to Japan because of being "alien enemies" under the Alien Enemy Act. Having lost most of their assets and worrying about their future and that of their American citizen children many aliens signified a desire to be repatriated to Japan with their children when the Government offered them repatriation rather than remain confined indefinitely only to face eventual removal to Japan. The WRA Centers became fear ridden. Besides the worry over what their future was to be there was strife in the overcrowded Tule Lake Center and a number of incidents occurred that increased the worries, tensions and fears of the incarcerated persons. The WRA, being a temporary wartime executive agency whose officials and personnel were recruited for temporary purposes as distinguished from a public career personnel, drafted rules and regulations to govern the WRA Centers, but those rules and regulations were authoritarian and no provisions were contained therein to preserve or guarantee basic rights to the incarcerated citizens. (It may be likened to the passage of a Constitution for their government without, however, supplementing it with a Bill of Rights.) The WRA also established an effective censorship over the Centers and maintained a special publicity staff in San Francisco and in the Tule Lake Center to

insure the WRA of favorable publicity and also to prevent or suppress adverse publicity against its management of the Centers. Its policies caused dissatisfaction and bickering among the official staff members of the Tule Lake Center, one group favoring democratic representation and the other an autocratic management. The conflict between the two opposing official groups in the Tule Lake Center found adherents among the incarcerated persons and led to a number of incidents.

From early November of 1943 to August of 1944 the WRA had an Army contingent stationed at the Tule Lake Center and at various times during said period some 300 U.S. citizens were confined in a Stockade which was set up there. The citizens confined therein were not allowed to leave the Stockade or even look out because of the 12 foot high beaver-board attached to the fenced-in crowded Stockade quarters. Family members in the Center proper were not allowed to visit them or communicate with them and the prisoners were not allowed to receive mail. The citizens who were picked up and confined to the Stockade simply were apprehended without notice and without charges being preferred against them and without any hearing being given them and were detained therein for many months. Complaints about such matters reached the outside world, however, despite the efforts of the WRA to suppress publicity and caused many inquiries into the matter. Secretary of the Interior Harold L. Ickes who became head of the WRA and also Dillon S. Myer, the Director of the WRA, apparently had not been fully informed of the facts relating to such matters by the Project Director, the Assistant Project Director or by the Project Attorney. A few members of the WRA staff personnel, however, criticized the matters and brought them to the attention of various newspapers and the American Civil Liberties Union of Northern California which publicized the matter.

A number of the citizens detained in the Stockade appealed to me in July and August of 1944, as did some of their relatives and friends in that Center, to represent them and seek to release them from detention in that Stockade. I took up the matter immediately

with the San Francisco Office of the WRA which was situated in the Sheldon Building. The local WRA attorney, Mr. Burnhardt, informed me that the WRA had the right to detain them in the Stockade, that they were dangerous Japanese and that being held by the WRA under military and executive orders I could do nothing about it. I informed him that I would prepare applications for habeas corpus for the citizens who had sought my aid and let the U.S. District Court decide whether they could be detained in the Stockade without accusations being lodged against them and without hearings being given to them. (I prepared the applications for the writs and will produce them for inspection.) Thereafter the local WRA office requested me not to file applications for writs of habeas corpus but to delay filing them for a few days until Mr. Glick, the General Counsel for the WRA in Washington, D.C., Mr. Dillon S. Myer, the Director of the WRA in Washington, D.C., Mr. Raymond Best, the Project Director of the Tule Lake Center and other WRA officials could come to San Francisco and first have a conference with me about the matter. I consented to wait for a few days only. The conference was held with Mr. Glick, Mr. Myer, Mr. Best, Mr. Cozzens and Mr. Burnhardt at the Sheldon Building office of the WRA in August of 1944. They attempted to dissuade me from filing the applications for writs of habeas corpus and tried to persuade me that the American Civil Liberties Union of New York and prominent members of that organization and others were opposed to my intervention on behalf of the confined persons. I informed them that I represented the detained persons who had been confined without semblance of legality and without having charges preferred against them and that it was an unlawful imprisonment and that I would not be dissuaded from representing the detained persons who personally had written me asking me to represent them and that I had the applications for the writs already prepared for filing. They yielded. The result was that the WRA agreed to release all of the confined persons immediately

from the Stockade and Mr. Best (I believe it was he) then and there telephoned to the Tule Lake Center and instructed the WRA (Project Attorney I believe) to release all of them immediately from the Stockade. The release was confirmed to me by telephone call from one of those who had been confined. In consequence, I did not have to proceed any further or to file the applications for the writs. The U.S. Attorney's office was informed of the results of this conference by the WRA local office. However, at the invitation and suggestion of Mr. Best I visited the Tule Lake Center to make certain that all the prisoners had been released and that the Stockade really had been closed. Mr. Best met me at the Klamath Falls Railroad Station and drove me to the Center about August 25-26, 1944. He made his own office available to me for interviews with the released persons, George Kuratomi, Tom Yoshimiya and some 10 others. Two of the group were laboring under the impression that Mr. Best had gone out of his way to break promises made to them over personal matters, one relating to a promise on Mr. Best's part to make his office available for a marriage ceremony and to attend the marriage and to give the bride and groom a suitable apartment for living quarters and also give the groom better employment in camp. The other related to certain employment alleged to have been promised them. To solve the problems I requested Mr. Best to come into the room and submit to questioning by me and by them. He acquiesced and as a result the differences quickly were resolved when it was developed that Mr. Best had not broken any promises to them and that they had relied upon hearsay without communicating with him. Thereupon Mr. Best informed me that several persons wished to consult me concerning the rights of a number of persons who asserted they had been attacked and beaten by WRA personnel. I advised these persons of their rights to commence actions for damages for assault and battery provided they could prove by sufficient evidence that they themselves had not been the aggressors and informed them that they first should make fairly certain that such a fact could be established

before they proceeded to commence such actions. (No such lawsuits thereafter were filed.) Thereupon I left the Center.

However, less than one (1) year later the WRA at the Tule Lake Center reopened the Stockade and incarcerated a fairly large number of persons therein under what it termed was its "disciplinary powers." The confined persons were not charged with anything specific - they were simply arrested and placed in the Stockade without charges being filed against them, without being told why they were arrested, and without hearings being given to them. They were neither given counsel nor access to counsel. News of this matter, however, leaked out of camp through letters of their relatives and friends in the Center, a few of their friends being members of the WRA personnel there, and also through church channels. An Oakland attorney (CR) was requested to represent several of these incarcerated persons and he discussed the matter with Assistant U.S. Attorney (RBM) in San Francisco and informed him of his intention of filing several habeas corpus proceedings on behalf of his clients, the intended proceedings being supported by the American Civil Liberties Union of Northern California, an organization distinct from the American Civil Liberties Union of New York. I do not recall whether he actually filed such proceedings in the U.S. District Court in San Francisco but whether they were filed or were to be filed the matter of his intention of bringing and trying such suits was discussed by him with Assistant U.S. Attorney (RBM) and with the U.S. Attorney (FJH). It was their belief that such proceedings would precipitate a stream of similar proceedings for each person then or thereafter confined in that Stockade and that such proceedings would clog the U.S. District Court's calendar. Such a state of affairs presented a problem for the District Court and also would occasion an onerous work burden on the U.S. Attorney's office as well as on counsel who then represented various confined persons and those who might represent those thereafter confined to the Stockade. I was informed of these matters and of the concern that had arisen over such matters by Attorney (CR) and by Assistant U.S. Attorney (RBM).

Sometime near the end of July, 1945, or in early August, 1945, Assistant U.S. Attorney (RBM) informed me that he had discussed the matter with his superior, U.S. Attorney (FJH), and also with Senior U.S. District Judge (AStS), and with Attorney (CR) and that the suggestion had arisen that the difficulties in the Tule Lake Center that were giving rise to such proceedings possibly might be resolved without a series of cases having to be tried in the District Court. The suggestion had arisen out of their talks that inasmuch as I previously had represented citizens detained in the Stockade and had succeeded in having them released and was known and probably trusted by the people in the Center by reason thereof that I might be able to iron out the difficulties between the WRA and the camp residents. It was thought also that I probably was better known to the people confined to the Tule Lake Center than other attorneys by reason of having handled the Korematsu case (which had been instigated in the same U.S. District Court and had been carried through the Court of Appeals for the Ninth Circuit and to the U.S. Supreme Court) and because I had participated in and briefed the Yasui, Hirabayashi, and Endo cases, each of which cases had gone from the District Court to the U.S. Supreme Court. My part in those cases had been publicized in all the Centers from the instigation of the evacuation program in newspapers and magazines and in the papers printed in the Centers and via radio. They believed therefore that I probably was better known to the incarcerated persons than other attorneys and that the Tule Lake Center residents might have sufficient confidence in me to discuss the problems with them and with the WRA Staff and that I might be able to iron out the pending difficulties and possibly obviate a multiplicity of lawsuits arising from that source involving questions of an asserted illegal detention in the Stockade. Assistant U.S. Attorney (RBM) informed me of the results of said discussions and that he, his superior, the Judge and Attorney (CR) concurred in the conclusion that a visit by me to that Center might be productive of good results and that it was worth a try in any event. Attorney

(CR) discussed the matter with the Director of the ACLU of Northern California and also with me and both informed me they favored my going as a last chance effort but believed my efforts would be fruitless because the WRA had been adamant in its talks with them. They discussed the matter with Assistant U.S. Attorney (RBM) who asked me if I would consent. I said I was willing to try. Assistant U.S. Attorney (RBM) then talked the matter over with his superior, U.S. Attorney (FJH), and with the Judge (AStS) and they approving, he telephoned to (EE), the Director of the Alien Enemy Control Unit of the Department of Justice, Washington, D.C., explained the problem and of what he and the others deemed might result in a solution. He agreed with their conclusion that it was worth the chance and approved my visiting the Tule Lake Center and informed the WRA office in Washington that I would visit that Center for such a purpose. The local WRA office and the Project Director at the Center also were notified and my visit to the Center received official approval. Inasmuch as the opinion of said persons appeared to be unanimous that if anyone could solve the problem it was possible that I was that person I consented to visit the Tule Lake Center. I notified the WRA Office in San Francisco of the time I would arrive at that Center. I went there. Mr. Noyes, the Project Attorney, met me at the train and drove me to the Tule Lake Center. It was this visit made for said purpose that had the unexpected result of giving rise to the avalanche of letters cancelling the renunciations of U.S. nationality and which thereafter precipitated the mass class lawsuits, financed by the internees through the instrumentality of their litigation trust fund, and finally resulted in the liberation of all the interned Nisei from detention and the closing of the Tule Lake Segregation Center, and the Alien Internment Camps at Bismarck, North Dakota; Santa Fe, New Mexico; Crystal City, Texas, and the camp at Bridgeton, New Jersey, and the recovery of the citizenship of a great majority of the renunciants to date.

Arriving at the Tule Lake Center I discussed this new Stockade problem with Mr. Raymond Best, the Project Director, Mr. Lou Noyes, the Project Attorney, and other members of the WRA Staff, upbraided them for having reopened the Stockade and for having incarcerated citizens therein without preferring charges against them and without giving them hearings and pointed out that such things were quite arbitrary and violated the concepts of fair play and violated their constitutional rights. Because they came to doubt whether their actions could be justified in Court and because of their fear that if the outcome of habeas corpus proceedings was unfavorable to the WRA the facts would be publicized and focus public attention and criticism on the WRA they consented to release all the persons who were held in the Stockade and to close the Stockade permanently. The imprisoned persons were released immediately and they were brought from the Stockade into the room so that I could verify the fact of their release. One of the persons at the outset declined to be released but on being informed that he could not return to the Stockade because it had been closed up while he was in the room and that it would not be reopened accepted his release.

The Stockade matter having been settled I was preparing to leave the Center when I was informed by Mr. Best and Mr. Noyes that a number of the camp residents had heard that there was a private attorney in the Center and wished to consult me. I consented to such consultation. Mr. Best and Mr. Noyes made Mr. Noyes' office available to me as the consultation room and a number of persons with their interpreters were ushered in by them to consult me privately. They were alien fathers and mothers of American born citizen children who were in the Center. From them I learned for the first time that their children and several thousand other citizens had renounced their U.S. citizenship in camp during the period from December of 1944 through March of 1945 and a number of them during June of 1945, under the provisions of 8 US Code, Sec. 801(i), a special statute enacted July 1, 1944, and Sections 316.1 to

316.9 inc. of the Nationality Regulations. A number of the children also came in for private consultation. They wished to know if there was something that could be done on behalf of these children who, like themselves, were threatened with removal to Japan as alien enemies under the provisions of the Alien Enemy Act (50 U.S.Code, Sec. 21, et seq.). The theory advanced by the Justice Department to justify the removal to Japan of the citizens who had renounced their U.S. citizenship was that they were "dual nationals" under the organic law of Japan (jus sanguinis) which provided that all descendants of Japanese were Japanese nationals wherever born. It also took the view that they were "dual nationals" under the municipal law of Japan which provided that all children of Japanese parents born in the United States before December 1, 1924, possessed Japanese nationality automatically and all those born since that date were Japanese nationals if their births had been registered with a Japanese diplomatic or consular officer within 14 days of their births. No opportunity had been given to any of them to produce evidence of a want of such registration and hence a want of Japanese nationality so the Justice Department simply raised a presumption of their possessing Japanese nationality in order to treat them as alien enemies. The theory of the Attorney General, the Justice Department and also the State and War Departments was that the American born citizens of Japanese ancestry presumptively were "dual nationals" and, upon renunciation, lost their U.S. nationality and retained Japanese nationality and thereupon automatically became "alien enemies" and, as such, subject to the provisions of the Alien Enemy Act and proclamations and orders issued thereunder. Classified as "dangerous alien enemies," under the provisions of Presidential Public Proclamation No. 2655 of July 14, 1945, they became removable to Japan by the Attorney General because of such foreign nationality if the Attorney General deemed them to have adhered to an alien enemy country or to the principles of an alien enemy government.

(Later on, before filing the class suits, being confronted with the multitude of problems posed by the citizens' renunciations of U.S. nationality, their classification as "disloyal persons" and their classification as "dangerous alien enemies" who were asserted to have adhered to the Japanese government during wartime and who were subject to removal to Japan under the provisions of the Alien Enemy Act and Presidential Public Proclamation 2655 and who then were interned as alien enemies by the Attorney General and for whom it was questionable whether they could sue in court by reason of the provisions of the Alien Enemy Act and the Trading with the Enemy Act and whether they could have legal representation by reason of the Foreign Agents Registration Act, I obtained an oral assurance from the Justice Department Alien Enemy Control Unit that it would not raise any question of my right to represent them without registering as the agent of a foreign government and, of course, it was my contention the renunciants were not alien enemies but U.S. citizens.)

Having to give my opinion on these legal issues to the persons who consulted me while I was at the Center I reached the conclusion that the Government's detention of the U.S. citizens and its acceptance of their renunciations of nationality during that detention followed by internment for removal to Japan were unconstitutional acts. So I informed the persons who were consulting me that in my opinion the statute (801 USCA 801(i)) and Secs. 316.1 to 316.9 of the Nationality Regulations were unconstitutional and that the renunciations were void for governmental duress, their detention was illegal and that they could be removed to Japan only by arbitrary governmental action contrary to the U.S. Constitution. I advised them that their citizen children first should write immediately to the Attorney General and inform him of the conditions under which the renunciations were made and assert that the renunciations and his orders approving the renunciations were unconstitutional and void for being the direct and proximate result of governmental duress and also for the additional reason of private coercion exerted upon them by persons and groups in the Center and to notify the Attorney General that they

cancelled those renunciations. I advised them also to notify the Secretary of State, Secretary of the Interior, Alien Property Custodian, the WRA Director, the Immigration Officer in Charge of the internees, the Project Director and other Government Officers of such cancellations of renunciations for such reasons. Thereupon I wrote out for them several identical sample forms of such a cancellation letter in pencil or ink for such use and informed them that if their citizen children desired to cancel their renunciations they should copy such form and send such letters immediately by mail. Also I informed each of the parents and renunciants present that, in my opinion, each of the citizen renunciants who wished to cancel his renunciation also should seek the immediate advice of his own personal or family attorney by letter or telephone call and take the preliminary steps to cancel his renunciation and thereupon to have their attorneys take whatever steps they might decide upon to initiate lawsuits to prevent their removal to Japan, to obtain release from detention and also to try to set aside their renunciations in court. I informed them that such letters probably were necessary preliminary steps to take as conditions precedent to the initiation of any lawsuits. Later on I learned that the form letters I then and there prepared relating to cancellation of their renunciations had been widely used by renunciants in that Center and in the other camps where renunciants also were interned.

Having prepared such samples of form letters and given such advice the consultations ended. Thereupon I questioned Mr. Best and Mr. Noyes about the renunciations informing them I had not previously heard of any such thing as renunciations during wartime. They informed me that thousands of citizens (5,371 total in the Tule Lake Center and only 151 in eight other Centers) had renounced their citizenship while detained in WRA custody and that they thereupon were interned under the Alien Enemy Act as alien enemies by the Attorney General and their custody passed from the WRA to the Attorney General and that none of them were eligible for relocation in the

United States. Armed Immigration Border Patrol Guards had been posted as sentries at the gate and none of the renunciants were allowed to depart from the Center although non-renunciants and some aliens were eligible to be relocated by the WRA. I informed them that it was my opinion that renunciations made under the conditions and circumstances under which they had been made were void for duress and also void for constitutional reasons and that I had advised the persons who consulted me to write letters cancelling their renunciations on the grounds they had been made under duress and in violation of the U.S. Constitution and to obtain attorneys to represent them. Thereupon I left the Center. Later I learned that a great number of persons in that Center and also in other camps had communicated with various attorneys. I was informed by numbers of such persons that not one attorney had been found who was willing to represent a renunciant in an effort to gain release from internment or to prevent removal to Japan because of the fact of the renunciant's Japanese ancestry, evacuation, detention, brand of being a disloyal person, his renunciation of citizenship and because he was interned as an alien enemy for removal to Japan.

CR (Charles Rust)

Upon returning to San Francisco I informed Attorney CR, Assistant U.S. Attorney RBM, and the Director of the ACLU of Northern California that all the persons who had been confined to the Stockade by the WRA had been released and that the Stockade had been closed. Also I informed them that thousands of the citizens had renounced their citizenship and that thereupon their detention had been converted into their internment as alien enemies and they were threatened with removal to Japan. Also I informed them that I had advised those interned that it was my opinion the renunciations were void for duress and on Constitutional grounds and that I had advised them to take steps to cancel their renunciations if they wished to do so and to engage their own attorneys to advise them and to represent them.

The group in the Tule Lake Center that had been interested in having something done for them, acting through their various committeemen, had set about obtaining pledges from those who decided to do

something for themselves to avoid removal to Japan and to protect their rights. From what I was informed a substantial number of them had pledged themselves to act as a group and to contribute funds to a common litigation fund if and when it was determined that something might be accomplished to prevent their removal and protect their rights and attorneys could be obtained to represent them. I believe the majority of those pledges were made during August of 1945.

Previous to that time the hesitance or failure of the renunciants to take legal steps to protect their rights apparently was caused by rumors that the Government might relent and might not remove all those who had renounced their citizenship to Japan. On August 10, 1945, the Japanese government announced its surrender. On August 14, 1945, President Truman announced that Japan accepted the Allied Powers' Potsdam Declaration and surrendered unconditionally and that hostilities had been ordered suspended. The view of the residents in the Center changed quite suddenly when reports and rumors circulated that the Government intended a general removal of renunciants to Japan. The Center residents became filled with anxiety and a general hysterical condition developed in the Tule Lake Center and also in the Alien Internment Camps at Bismarck, North Dakota, and at Santa Fe, New Mexico, to which numbers of renunciants had been removed from the Tule Lake Center in late 1944 and early 1945 as trouble-makers. The internees decided something must be done quickly or they would find themselves on board U.S. Army transports bound for Japan. This accounted for a deluge of pleas to various attorneys throughout the country to intervene on their behalf but apparently no attorneys were found willing to represent internees of Japanese ancestry who had renounced U.S. citizenship, had been branded disloyal and subversive and were detained for removal to Japan as alien enemies.

In the latter part of August, 1945, and early September, I was besieged with requests to take action by an increasing number of citizen internees who had renounced citizenship to prevent their removal to Japan. A number of attorneys telephoned me they had

received like requests for various individual internees who had been advised by me to engage their own attorney to represent them. A number of them requested that if I was to represent any of the internees that they would like me to represent those they had been requested to represent. None of them was willing to represent a renunciant however. A number of attorneys telephoned me and advised me I'd be in for trouble if I represented such persons.

Being recalled to the Tule Lake Center I was consulted by hundreds of persons, citizens, groups of citizens and alien parents and family members about the status of the renunciants and what could and should be done to liberate them, to prevent their removal to Japan and possibly set aside their renunciations and have them declared to be U.S. citizens despite their renunciations. I gave them the best advice of which I was capable, under the circumstances, advising them all to send written notice to the Attorney General of cancellation of their renunciations because they were the products of duress and fear, and on other grounds of illegality. I advised them to seek the services of their own lawyers to advise them and to take steps in court through appropriate proceedings to liberate them from detention, to prevent their removal to Japan and to have them declared to be citizens. A large group of them, however, had decided that they desired me to act as attorney for their group and I said I would but that I, nevertheless, thought that all those who wished to engage their own personal or family attorneys to represent them should do so immediately and that the larger the number of attorneys representing various renunciants individually and by families and groups the better the prospect would be that favorable results might be obtained.
Mr. Nakamura who was a resident of the Tule Lake Center and was the assistant legal officer of that Center was sent from that Center as an emissary of residents to enlist the aid of attorneys who might be willing to represent such internees. He visited Los Angeles, Fresno, San Francisco and elsewhere in California but was unable to find a single other lawyer willing to represent such persons. So it was that

I was selected to be the sole attorney for such a large number of renunciants, my selection, perhaps, being due largely to the fact that many other attorneys had turned them down. The fact that I had given camp residents advice as to their rights and what they could or might do to preserve their rights was a factor in my being selected. Another factor probably was that many of the residents had knowledge that I had been the attorney for Fred Korematsu and had appeared and briefed the Yasui, Hirabayashi, and Endo cases which challenged the validity of the curfew regulations and travel restrictions placed on them following their evacuation, and had challenged the constitutionality of the evacuation and confinement of citizens of Japanese ancestry in such Centers and twice had succeeded in having persons released from the Stockade. (Sometime after I had been selected as the attorney for a large group of renunciants and had filed mass class suits for them a Los Angeles firm of lawyers actively solicited individual cases but because of testimony given by its leading member to the Dickstein Congressional Committee and his statement there made that all renunciants should be deported the residents in camp rejected that law firm's overtures.)

The Committee engaged me as attorney in the first few days of September, 1945, as attorney for their group of pledgees who had pledged themselves to act in concert, the terms, conditions, etc., to be worked out when and as the probable number of persons to be represented was determined by that Committee with more definiteness, it being made known to me that the pledges that had been made by a substantial number of persons would result in sufficient money being contributed to a general litigation trust fund which, at that time, I had been given to understand would be held by their committee or a committee appointed from their midst and be used for the contemplated litigation purposes when, how, and as needed. (Many individuals and other groups of internees then were contemplating representation by their own family or personal attorneys and, apparently, still were seeking such representation but without final success and later on joined the main group.)

In October, 1945, while I was in San Francisco preparing the cases and taking the prerequisite steps to the initiation of the litigation, the Committee at large, and its Executive Committee, with the consent and approval of the pledged intended parties litigant, decided that it was impracticable for it or any of its members or any internees to act as the trustee or trustees of the litigation trust fund and, without consulting me and without notice to me, decided to appoint me trustee of the fund. They set about getting the pledgees to make their contributions to the defense trust fund. Each and every contribution thereto, by their specific instruction, was obtained by having the pledgees draw the amount of their respective contributions, if any, from the bank in the camp (Bank of America branch) and purchase at the Post Office in the camp individual postal money orders, each of such money orders being made payable to "Wayne M. Collins, Trustee." I was not aware of this at the time and had not been notified that I was also to act as trustee. I was in San Francisco busily engaged in legal research and preparation of the pleadings and working on problems involved in the contemplated litigation at the time. Upon returning to the Tule Lake Center, I was informed that the Committee unanimously, with the consent of the parties who were to be litigants, in addition to having selected me as the attorney for the interested group of internees had decided that I was to act also as trustee of the litigation trust fund they raised. The reasons therefore being disclosed to me and the fact that contributions to the fund had been and were being accepted by the Committee from the pledgees I consented to act as trustee thereof. I was informed by that Committee that the following reasons, among others, were why they appointed me trustee, namely: (1) if I was successful in having persons liberated from confinement their committeemen would be scattered about the country and would have considerable trouble in finding homes and employment (2) that in such event it would be difficult if not impossible for the committee to act speedily as a whole during any such transition period (3) that the Executive

Committee, the Committee at large and the internees had decided and believed that if they could not trust the attorney selected to represent them there was no one else they could trust to act as trustee. (The ACLU of Northern California had offered to be trustee for the fund but the Committee and the group decided against it because of a belief that its publicity would disclose the trusteeship and might result in an unintended licensing or freezing of the trust fund which would stop the litigation.)

Being assured that the litigation was almost ready to be filed in the U.S. District Court, the renunciants thereupon entered into a written agreement between themselves and their Executive Committee which they had set up from their Committee at large and authorized it to engage my services as attorney to represent them in proceedings in the U.S. District Court. (See Affidavit of their Committeeman at large, including the members of their Executive Committee, for the details. The original of said Agreement they entered into with their Executive Committee was presented for examination at the conference held on June 5, 1958.) The oral agreement for me to represent the renunciants through their Committee thereupon was reconfirmed. The facts relating to my being engaged as attorney to represent a large number of the interned renunciants, through the instrumentality of their Committee which at first was called the Defense Committee and shortly thereafter was named by them the Tule Lake Defense Committee, the compensation I was to receive from the litigation trust fund and the possible contingent remainder I was to receive as additional compensation for legal services are set forth in the Affidavit executed by their Committee at large, including the members of their Executive Committee, a copy of which Affidavit is in your possession. (The original of the renunciants' Agreement they entered into with their Executive Committee was presented by their committeemen Harry Uchida, Kouchi Matsuoka and Tetsujiro Nakamura for examination at the conference held on June 5, 1958.) The facts relating to the specific purposes for which the litigation trust fund was to be applied by me as trustee thereof and the conditions and restrictions

thereon are as specified in the Affidavit of their Committee at large, a copy of which is in your possession.

The Executive Committee, acting under the approval of the Committee at large, after much discussion decided that the trust funds must not be deposited in an account which would disclose a trusteeship of funds of interned persons which might cause the bank to freeze the fund unless a license was obtained for the release of the funds by each contributor to the trust fund, pursuant to regulations adopted under the provisions of the Trading With The Enemy Act, if the bank were to assert such licenses might be necessary before it would allow any withdrawals to be made thereon because of the Attorney General's blanket contention the internees were alien enemies and their assets subject to regulation. If such a thing happened, it would hamstring any efforts of the internees to prosecute their rights in court and could result in their removal to Japan without a fair chance for them to have the court decide they were still citizens and deprive them of receiving the benefits of litigation to conclusion of their rights. There also was some belief or fear that the Office of Alien Property Custodian might take steps to freeze their individual assets and assert the right to vest such and in the event that such a thing occurred they would be deprived of the right and power to litigate their rights to conclusion. A few of the WRA officers in the Tule Lake Center informed them that there was a possibility that their funds in camp and outside possibly might be subject to licensing or freezing regulations. It was the alarm that such beliefs and opinions occasioned that caused the Executive Committee, at the insistence of the Committee at large and the interned citizens, to decide that the trust fund must not be deposited in a bank acount disclosing the fact that the trustee held as trustee for interned persons if there was a chance of the fund thereby becoming subject to licensing or freezing regulations. The Executive Committee executed duplicate originals of its Power of Attorney to its agent, Tetsujiro Nakamura, dated October 30, 1945, one original being delivered to me. That Power of Attorney,

I was informed, also was intended by their Executive Committee, and their Committee at large, to enable their agent, Tetsujiro Nakamura, among other things, to make certain that the funds as and when delivered to me as trustee should not be placed by me in any account showing the funds were trust funds if there was a likelihood that such a disclosure might give rise to the depositary requiring all deposits and withdrawals to be individually licensed. (I joined the Alien Property Custodian as a defendant in the equity suits to be able to restrain him from vesting and confiscating the assets of the plaintiffs.)

The properties (money, land and other assets) of those of the interned renunciants who did not originally join the "class suits" and who were sent to Japan, were vested by the Alien Property Custodian and later by the Attorney General who subsequently assumed the functions of the Alien Property Custodian. I was not able to prevent him from so doing because none of these plaintiffs joined the suits until after they were in Japan. (However, since such vesting (appropriation and confiscation) the Office of Alien Property which is a division of the Office of the Attorney General has followed the policy of restoring such properties or the equivalent (less maintenance and preservation costs) in money to renunciants who were sent to Japan provided they succeed in cancelling their renunciations and are declared to be U.S. citizens.) The assets of renunciants who remained in the U.S., however, were not subjected to licensing or to freezing (vesting and confiscation) because of the contention that they were U.S. citizens or "stateless" natives and not alien enemies despite their renunciations.

Four mass "class suits", two in equity and two in habeas corpus, were filed in the U.S. District Court at San Francisco on November 13, 1945. The habeas corpus proceedings were brought under 28 USCA, Secs. 451-452, and primarily were designed to test the validity of detention and to release the petitioners from detention and thus prevent removal to Japan. The equity suits were brought under 28 USCA, Sec. 41(1), and were designed for like purposes but primarily to cancel

the renunciations. These pleadings also were couched in allegations to meet the requirements of 28 USCA, Sec. 400 for declaratory relief judgments and also for declarations of nationality under 28 USCA, Sec. 903. A fifth "class suit" in equity was also filed by me on June 16, 1949, and subsequently the plaintiffs therein were transferred to the consolidated equity suits. Temporary stays of removal to Japan pending the outcome of the litigation were obtained in the habeas corpus proceedings through the issuance of orders requiring the respondents to retain the petitioners within the jurisdiction of the Court, although the Judge doubted his orders would be obeyed.

Judge St. Sure, before whom the causes were pending, grew ill and did not return to the bench. (Subsequently he passed away.) The causes were transferred to U.S. District Judge Louis E. Goodman who handed down his decision and Opinion in the habeas corpus cases (25296-25297) granting the writs on June 30, 1947, holding the petitioners were not alien enemies and on August 11, 1947, handed down his Memorandum Decision rejecting the respondents' concept of dual nationality. Abo v Wixon, 77 Fed. Sup. 664. The respondents filed Notices of Appeal on September 8, 1947, in the habeas corpus cases. Thereupon all the then detained renunciants in all of the camps were paroled into my custody whether in the suits or not by order of Court and consent of the Attorney General on September 8, 1947, and were returned to their homes at government expense. (They were liable to re-seizure, however, and possible removal.) On April 29, 1948, Judge Goodman handed down his Opinion (Abo v Clark, 77 Fed. Sup. 806) in the equity suits (these consolidated suits included suits to determine nationality and for declaratory judgments) in Numbers 25294-25295, and on September 27, 1948, the Interlocutory Orders, Judgments and Decrees were entered. On March 23, 1949, the Orders Striking Defendants' Designations were entered, and on April 12, 1949, Findings of Fact and Conclusion of Law and the Final Orders, Judgments and Decrees were entered in favor of all the parties plaintiff, cancelling their renunciations and declaring

them to be U.S. citizens. Thereafter, the defendants filed Notices of Appeal on April 26, 1949.

After the four class suits were filed on November 13, 1945, for approximately 1,000 persons many additional interned renunciants were joined to the cases. Between June 30, 1947, when the Opinion of Judge Goodman was handed down in the habeas corpus proceedings and April 12, 1949, when the Final Orders, Judgments and Decrees were entered in the consolidated equity suits several thousand additional renunciants who had been liberated from detention were joined as parties to the consolidated equity suits. A total in excess of 3,000 persons were joined before the final judgments were entered in these suits. They were all joined on the instructions to me by the Tule Lake Defense Committee to which they applied and which represented them under their aforesaid agreement. I was bound to move to join them because I was employed as attorney by the Tule Lake Defense Committee to represent the group and consequently could not accept them as separate cases upon private terms.

The motions for joinder in the equity suits of all those who sought joinder between about April 29, 1948, and April 12, 1949, were all contested by the lawyers for the Justice Department representing the defendants but the motions were granted by court orders over their repeated objections.

The joinder of such persons presented jurisdictional questions, inasmuch as none of these newly joined persons was in detention at the time of joinder. The Justice Department lawyers contended that upon release from detention there no longer existed any justiciable controversy and that the class suits were not true class suits and therefore were moot and also dismissable because no jurisdiction was had or was obtainable over the Attorney General and his agents and the other defendants. Their theory was that none of the defendants was depriving any of these plaintiff of any citizenship rights at the joinder times. They also contended that as the defendant Attorney

General, et al, no longer held them in custody or deprived them of any right of citizenship, etc., there no longer was a justiciable controversy and hence no jurisdiction to determine nationality or to grant declaratory judgments. (Always there were the inherent questions whether the Attorney General, Secretary of State, Interior, et al., could be sued in San Francisco and whether jurisdiction, if any, lay only in Washington, D.C. Also there was the question whether the venue in any event was in San Francisco as against venue in Eureka or Sacramento, California. Also the question was posed whether the federal courts have a general jurisdiction in equity to cancel written applications for renunciation and cancel the Attorney General's orders approving the renunciations as not contrary to national self-defense interests. (Such an equitable jurisdiction question has been recognized by the Supreme Court but has not been passed upon in any case so far.)

Prior to the time of filing the suits it was made known to all the intended plaintiffs through information given by me to their Tule Lake Defense Committee and to them, that if the class suits were ordered dismissed for jurisdictional reasons or otherwise and an individual proceeding in habeas corpus had to be filed for each litigant and also an individual suit in equity for cancellation of his renunciation or a separate individual suit to determine nationality under the Nationality Act or for declaratory relief that the filing costs alone and service of pleadings on the defendants would not only be prohibitive but so would the premium on any bonds they might be required to file in equity to obtain restraining orders against removal to Japan pending the outcome of the causes. It was recognized that if such arose the total costs alone would quickly exhaust the funds raisable by the internees. (As many of the initial parties plaintiff were not able to make any contribution to the trust fund or only trifling amounts because of their general poverty this meant that if the class suits failed or were dismissed it would become impossible for many of them to obtain any redress even by

resort to proceedings in forma pauperis simply for want of sufficient money to proceed. Also it must be noted that usually only one member of a family had gainful occupation in camp and his earnings were limited to $12, $16 or $19 per month. (Two U.S. District Court decision already had decided that joint habeas corpus proceedings were improper and dismissable.)

Those of the interned pledgees who made contributions to the litigation trust fund delivered those contributions direct to their Tule Lake Defense Committee under the agreement entered into between them and their Committee, their Committee fixing the maximum contribution any pledgee could make at $100.00 for the district court proceedings. A large number of them contributed nothing and a large number of them contributed varying sums up to the maximum.

The contributions to the fund made by the pledgees to their Committee in course of time were delivered and also brought and sent by their committeemen at various times to their agent, Tetsujiro Nakamura, and also to Fumio Masuoka, following the latter's release and later to me at my office in the Mills Tower, San Francisco, where the postal money orders were assembled and the relevant data pertaining to the contributors assembled and the bank deposit lists were made up by Mr. Nakamura. As various committeemen were released they also helped Mr. Nakamura and Mr. Masuoka with such matters. When the initial contributions to the litigation trust fund were ready for deposit Mr. Nakamura, under his agency with the Executive Committee, and I interviewed officials of two banks, the Bank of America and the San Francisco Bank (now the First Western Bank & Trust Co.) to ascertain if the trust funds could be deposited and withdrawals made therefrom without disclosing the fact that the fund was for the litigation of the rights of interned persons who asserted U.S. citizenship. Mr. Simpson, an official of the Bank of America, informed us that his bank would require a disclosure of the nature and purposes of the trust fund and was not certain that it wouldn't require licensing. Mr. Nakamura and I both were inclined to

believe his Bank might raise the question and require licensing which could tie up the fund for a long period and so Mr. Nakamura decided against it as a depositary of the trust fund and I concurred. We then proceeded to the San Francisco Bank where we were informed by Mr. Meyers, an officer, that a "Special" commercial account and also a "Special Savings Account" could be opened in lieu of accounts designated "trustee" accounts and that such accounts would be accepted by his Bank without inquiry as to the nature of the fund and the purposes to which applied, and that the "special" accounts were equivalent to trust accounts but required no disclosure of the purposes of the accounts. In consequence, Mr. Nakamura and I were satisfied that Bank should be the depositary. Therefore, on December 17, 1945, the first of the capital contributions to the litigation trust fund in the sum of $1,005.00 were deposited in a "Special" commercial account therein and that account has been maintained to this date and contains a continuous record of the payments of the trust expenses. Inasmuch as no question of licensing arose subsequent contributions to the litigation trust fund were deposited in a "Special Savings Account", No. 775842 in said Bank, opened January 15, 1946. The contributions to that fund were deposited in the savings account as received and from thence were transferred to the "Special" commercial account, as required, to defray the costs, fees and expenses of litigation. The deposit lists were prepared by Mr. Nakamura, the agent of the Tule Lake Defense Committee, up to the time he moved to Los Angeles.

About August of 1948 the Tule Lake Defense Committee which had opened its office in Los Angeles conducted a campaign to raise additional money for the litigation trust fund from those who had joined the class suits subsequent to the time Judge Goodman handed down his Opinion in the consolidated equity suits on April 29, 1948, and who had not made any contributions to the fund. It refers to that campaign as its second drive, the first being the campaign it conducted in the Centers. The funds derived by it from its second drive at the outset could not be commingled with the

residue then on hand for the reason that at the time serious jurisdictional questions existed and were inherent in the joinder of said persons in the suits by reason of the fact that none of them were being detained at the time of their joinder. I informed that Committee that if the contentions of the defendants were upheld by the Court those joined plaintiffs would be dismissed from the suits by the Court and the only way they then could proceed to have their renunciations cancelled and their U.S. citizenship declared by a Court would be by individual suits brought under the provisions of Section 803 of the Nationality Act of 1940 to determine their nationality and then only provided each first had been denied a particular right of citizenship and had exhausted the administrative remedies provided thereunder before filing such suit. (Their right to joinder, however, was upheld by the District Court and subsequently, was upheld by the Court of Appeals for the Ninth Circuit.) The contributions to the trust fund made by this group of the litigants, therefore, had to be kept separate and be available to commence such individual suits in the event the defendants succeeded in having them dismissed from the class suits. I informed the Tule Lake Defense Committee of this matter and, in consequence, when it was ready it sent Mr. Nakamura to San Francisco with the first of the funds it received from its campaign and on November 10, 1948, such moneys were deposited in Savings Account No. 19474 in the Bank of America, without revealing it was a trust fund, Mr. Nakamura for the Tule Lake Defense Committee agreeing that inasmuch as the litigation trust fund previously raised was approaching exhaustion (it then was down to approximately $17,000.00) the additions thereto should be so deposited and kept separated temporarily for the above-specified contingency (which didn't materialize) but be used when and as needed to supplement the funds on hand and that such a procedure was justified because those who had been joined to the cases had and were still receiving the benefits of the full litigation.

The respondents' appeals (Nos. 12195 and 12196) in the habeas corpus proceedings were decided by the Opinion rendered by the U.S. Court of Appeals for the Ninth Circuit on Feb. 27, 1951, which ordered the judgments affirmed as to certain classes of petitioners and reopened as to other classes but by that time I had negotiated an outright release for all except some 302 petitioners. See Barber v. Abo, 186 Fed. 2d. 775. It also rendered its Opinion on that date in the equity suits (Nos. 12251 and 12252) affirming the judgments and decrees of the district court as to certain classes of plaintiffs and reopening the causes as to a majority to enable the Attorney General to introduce additional evidence but established a presumption in the causes that the renunciations were the products of duress. See McGrath v. Abo, 186 Fed. 2d. 766.

About April of 1951 the Tule Lake Defense Committee informed me of its intention to conduct a campaign to obtain additional contributions from the renunciant litigants whose cases were not yet finalized in order to carry on the litigation. In May of 1951 it informed me that it had decided to obtain an additional $200 per litigant to prosecute their causes so that the total contribution to the causes by any of them would not exceed $300. Subsequently it informed me of its intentions by letter of June 6, 1951. I had been orally informed by it in May that as my legal services had been concluded in the District Court pursuant to the original undertaking that the residue of the trust fund on hand was to go to me thereunder. That Committee later confirmed this to me by letter of June 26, 1951, consequently, that residue passed to me and was reported in my personal income tax returns for 1951 as fees to me. (See accounting annexed.) The bank interest that accrued to it on June 30, 1951, also was set forth in my personal income tax returns for that year as an interest item of income.

The additional contributions to the litigation trust fund thereafter received by me as trustee were deposited in "trustee account"

No. 792754 in the San Francisco Bank starting on June 20, 1951. They were so deposited with the consent and approval of the Tule Lake Defense Committee as by then there no longer was any possibility of the Bank raising any question that deposits and withdrawals therefrom would be subject to any licensing regulations. From that account sums were transferred to the aforesaid "special" commercial account for withdrawal for litigation trust purposes when and as needed so that the continuous record of those expenses has been and is maintained.

The Tule Lake Defense Committee notified me by letter of June 18, 1951, that the contributions to the litigation trust fund raised on its new campaign (which it refers to as its third drive) were on substantially the same terms and conditions as the original undertaking but stated therein that it deemed $1,000 per month drawing therefrom for my legal services was insufficient. However, it didn't specify therein what particular sum it deemed to be sufficient and until this was resolved and confirmed to me in writing I made no such drawing thereon. On December 7, 1953, however, it wrote and confirmed to me that the figure had been increased to $2,000 per month and that as I had not been drawing on the fund for my legal services that I was authorized to draw the increased sum from the first of 1953 and thereafter.

Later the defendants applied to the U.S. Supreme Court for certiorari and I applied for certiorari for the plaintiffs in the habeas corpus proceedings and in the equity suits but the applications for certiorari were denied. However, I successfully negotiated an outright release from technical detention of the 302 persons (they long had been paroled into my custody) and thereupon the habeas corpus causes becoming moot I dismissed them. As to the remaining plaintiffs in the equity suits whose status remained undecided the Attorney General, through his staff of lawyers, and I entered into an agreement to pursue an administrative remedy for all those whose citizenship status was unresolved. Under this administrative procedure I

submit individual affidavits for each renunciant litigant to the Attorney General, through the U.S. Attorney in San Francisco, and if these, coupled with the evidence in the possession of the Justice Department and accessible to it, convince the Justice Department that it cannot overcome the evidence submitted by each individual that his renunciation was the product of factual duress the defendants withdraw their previously made offers of proof and thereupon stipulate they cannot overcome the presumption of duress. Thereupon judgment in favor of each such plaintiff is entered in the U.S. District Court in the class actions. This administrative procedure is nearing completion and its conclusion depends on the speed at which the Justice Department processes said affidavits.

Dated: July 10, 1958.

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