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THE STATE BAR OF CALIFORNIA

2100 CENTRAL TOWER
SAN FRANCISCO, 3
GARFIELD 1-5955

January 16, 1953

Wayne M. Collins, Esq.
1701 Mills Tower
220 Bush Street
San Francisco 4, California

Re: S. F. Pre (State Bar Investigation)

Dear Mr. Collins:

The above entitled matter is pending before Local Administrative Committee No. 2 for the City and County of San Francisco for its determination thereof as to whether or not preliminary investigation is warranted. To assist the Committee in its consideration of the matter, you may submit a written statement to it relative to the complaint.

A statement of the alleged facts in the matter is enclosed for your information.

Very truly yours,

Jack A. Hayes
Assistant Secretary

JAH:cs
Encl. (1)

STATEMENT OF ALLEGED FACTS

COMPLAINING WITNESS: State Bar Investigation

RESPONDENT: Wayne M. Collins, Esq.
1701 Mills Tower
220 Bush Street
San Francisco 4, California

In 1944 there was formed an organization known as the Tule Lake Defense Committee, the members of which are Japanese. The purpose of the committee is to aid Japanese internees in the matter of their release from confinement by military authority and the matter of the revocation of their renunciation of United States citizenship.

Subesquent to the formation of the committee Mr. Collins was employed by several thousand internees and former internees on whose behalf he brought actions to set aside their renunciation of citzenship. On behalf of those still interned he brought habeas corpus proceedings. In about 1945 Mr. Collins addressed a mass meeting at Tule Lake discussing the contemplated suits and explaining the applicable law. Following this meeting Mr. Collins was employed by an additional and substantial number of internees.

When Mr. Collins was employed in 1945 and 1946 his fee for representing each of the individuals was $100. Subsequently, because of developments with respect to some of the plaintiffs in the renunciation suit, the fee was increased to $300. Not all of theplaintiffs have paid that amount. Some plaintiffs who originally paid $100 and hold receipts marked "fee paid in full" or an equivalent statement have been the recipients of letters from Mr. Collins and from the defense committee urging that the total sum of $300 be paid. One of the most recent letters from the defense committee on this matter contains this language: "If you refuse to pay your share it probably will become necessary for Mr. Collins to stop representing you or to dismiss you from the law suit. If you are dismissed you will acquire the status of an alien in the United States."

In 1948 Mr. Collins circularized approximately 5,000 plaintiffs by means of a printed letter. The letter discussed the suits in which Mr. Collins was acting and Federal legislation regarding claims by internees

against the United States. In that letter he recommended four members of the State Bar as competent to handle such claims as well as a member of the Bar of Washington, D. C. He also recommended a lay person, who was described in the letter as one "who will help you or refer you to a lawyer."

TULE LAKE DEFENSE COMMITTEE

The Tule Lake Defense Committee is a voluntary, unincorporated, nonprofit organization of interned persons who renounced U.S. nationality and citizenship at the Tule Lake Center and other war relocation centers in 1944 and 1945 while there detained and thereupon were interned by orders of the Attorney General for removal to Japan under the provisions of the Alien Enemy Act, and of hundreds of interned Japanese aliens and Peruvian-Japanese likewise held under governmental restraint.

At Tule Lake Center, the Alien Internment Camps at Bismarck, N.D., and Santa Fe, New Mexico, and Bridgeton, New Jersey, in 1945 and early 1946, large numbers of the internees engaged the services of Wayne M. Collins, attorney at law, of San Francisco, California, to represent them to (1) obtain their liberation from internment, (2) to prevent their deportation to Japan, and (3) to cancel their renunciations. They selected from their own members a number, consisting finally of some 32 members, to act as committeemen under the name of the Tule Lake Defense Committee.

On November 13, 1945, Mr. Collins commenced joint and several mass class proceedings in habeas corpus to liberate them from internment and concurrently mass class suits in equity to have their renunciations and the orders of the Attorney General approving those renunciations cancelled and to have them declared to be U.S. citizens. He likewise commenced a series of suits for the

aliens in Del Rio, Texas, near Crystal City, Philadelphia and San Francisco.

On Aug. 11, 1947, orders granting the writs of habeas corpus were granted in the U.S. District Court at San Francisco, in proceedings Numbers 25296 and 25297 for each of the petitioners. See Abo, et al., v. Barber, 76 Fed. Supp. 664, and also 77 Fed. Supp. 866. The respondents appealed to the U.S. Court of Appeals for the Ninth Circuit. All petitioners were released from internment by Mr. Collins' negotiations except 302 before the Circuit Court in Jan. 17, 1951, reversed the judgment granting the writs and ordered the causes re-opened to enable the defendants to introduce further evidence. See Barber v. Aoki, et al., 186 Fed. 2d. 775. The petitioners' and also the respondents' applications to the U.S. Supreme Court for certiorari were denied on Oct. 8, 1951. See 72 S.Ct. 39 and 40 for memorandum decisions. The cases being remanded to the U.S. District Court subsequently were dismissed by the residue of 302 petitioners on May 6, 1952, after the Attorney General, on April 30, 1952, pursuant to the expiration of the state of declared war cancelled the last 302 removal orders against this final group of the petitioners.

On April 12, 1949, the U.S. District Court in the equity suits decreed a cancellation of the 4,354 renunciations and approval orders and declared each of the individual plaintiffs to be U.S. citizens. See Abo, et al., v. McGrath, 77 Fed. Supp. 806. The defendants appealed to the U.S. Court of Appeals for the Ninth Circuit which, on January 17, 1951, affirmed the judgments as to some 1228 plaintiffs but reversed as to the residue with

instructions to re-open them for the introduction of further evidence. See McGrath v. Abo, et al., and Furuya, et al., 186 Fed. 2d 776, and companion cases at 775. The plaintiffs and also the defendants' petitions to the U.S. Supreme Court for certiorari were denied by memorandum opinions on Oct. 8, 1951, See 72 S.Ct. 39 and 40. On May 29, 1952, the Orders, Judgments and Decrees Executing the Mandates of the U.S. Court of Appeals for the Ninth Circuit were filed in the U.S. District Court, finalizing the individual judgments of the 1228 plaintiffs but re-opening the individual cases of the remainder for further evidence. Since then some 160 additional persons have applied to the court to be joined as parties plaintiff where the matter still is pending for final disposition of the individual cases of several thousand.

He was successful in liberating all of the interned Japanese aliens by a series of lawsuits. He succeeded, through a series of suits, in liberating the Peruvian-Japanese from detention and still is concluding the administrative remedies of those whose cases are not yet finalized before various branches of the Immigration Service, the Commissioner of Immigration and the Board of Immigration Appeals.

The Committee maintains its office at Room 215, 128 South San Pedro Street, Los Angeles, Telephone Michigan 4728. It is made up of 32 members who volunteered from the ranks of the internees to serve as a committee while interned and were approved by the mass of internees who were interned and these continue to

serve until the rights of the remainder finally are determined.

The function of the Committee is to maintain contact with the renunciants and aliens who are scattered all over the United States, Europe and Japan who are parties to the various suits and negotiations until conclusion and to keep them informed of the progress of the cases and negotiations, to obtain evidence from them and for them and contributions from them to defray the expenses necessary to carry on the cases and negotiations to conclusion.

The Committee is nonprofit. It neither solicits nor receives any support from any outside source. It is neither regulated, controlled nor directed by any person or group of persons, except the internees who created the Committee and for whom alone the Committee acts. It is financed solely by those who created the Committee and for whom it acts, the once interned persons, and accounts only to them. Its expenses run about $700 per month and these consist of office rent, telephone, stationery, occasional stenographic services, postage and salaries of two persons for running the office. Aside from this all services rendered by committeemen and members is gratuitous. All members of the group of ex-internees repeatedly have been informed by the committeemen to forward their contributions to the causes to the Tule Lake Defense Committee but to make out their remittances in the name of Wayne M. Collins to whom the Committee will transmit them.

The Committee does not and never has solicited the case of

any once interned or any other person or persons. It does not and never has recommended any once interned person or any other person to have Mr. Collins or any attorney handle his or her case and has never asked Mr. Collins or any attorney to handle the case of any person. The internees themselves directly engaged his services.

Of the total number of renunciant members of this group approximately twelve percent have sent or delivered remittances to the Committee, payable to Mr. Collins, with few exceptions, but in no case has any member or person sent or delivered to the Committee any such contribution for any member in excess of $300.00 per person.

THE STATE BAR OF CALIFORNIA

2100 CENTRAL TOWER
SAN FRANCISCO, 3
GARFIELD 1-5955

April 6, 1953

Wayne M. Collins, Esq.
1701 Mills Tower
220 Bush Street
San Francisco 4, California

Re: S. F. Pre -(State Bar Investigation)

Dear Mr. Collins:

The above entitled matter, about which we wrote to you on January 16, 1953, has been given careful consideration by Local Administrative Committee No. 2 for the City and County of San Francisco, and it has been concluded that there are not sufficient facts in connection therewith to warrant preliminary investigation thereof.

Very truly yours,

LOCAL ADMINISTRATIVE COMMITTEE
NO. 2 FOR SAN FRANCISCO

Charlotte Semmers

By:
Charlotte Semmers, Secretary

/cs

Wayne M. Collins
Attorney at Law
Mills Tower, 220 Bush Street
San Francisco 4, California

February 6, 1953

The State Bar of California,

3100 Central Tower,

San Francisco 3, California.

Attention: Jack A. Hayes, Assistant Secretary.

Gentlemen:

In response to your letter of January 16, 1953, and the Statement of Alleged Facts annexed thereto I submit the following statement:

In July, 1945, some 18,000 evacuees of Japanese ancestry were confined at the Tule Lake Segregation Center, Newell, Modoc County, California. Thousands of like persons were confined at Alien Internment Camps at Bismarck, N.D., Santa Fe, New Mexico, and Crystal City, Texas. They had been confined under the provisions of Executive Proclamations No. 9066, 9102, and a series of civilian exclusion orders and general detention orders issued under authority thereof by a military commander.

Commencing in December, 1944, and throughout the greater part of 1945, some 5537 Nisei (first native born generation of Japanese in the U.S.) of the age of 18 years and upward renounced U.S. citizenship under the provisions of Title 8 USCA, Sec. 801 (i) while detained in the various concentration camps and applied in writing to the Attorney General, the War Relocation Authority, the State Department and the Swiss Legation for repatriation to Japan. Thereupon they automatically were classified as alien enemies under the provisions of the Alien Enemy Act (Title 50 USCA, Sec. 21

et seq.) and their confinement by the WRA, an executive agency, thereupon was converted into internment as alien enemies for removal to Japan by the Attorney General under authority of that Act and of Executive Proclamation No. 2655 of July 14, 1945.

These people had been deemed by the Government variously to be disloyal, to be of dual nationality (American and Japanese), to be draft evaders, to be dangerous to our security for having refused to subscribe an oath in a questionnaire abjuring allegiance to Japan, to be sympathetic to Japan and hostile to the United States, to have engaged in proselyting to the Japanese cause, to have been members of pro-Japanese organizations made up of men and women advocating the shedding of U.S. citizenship and professing allegiance and loyalty to Japan, to have engaged in demonstrations and sundry acts of violence and to be persons who had adhered to Japan or to the principles of its government and who, in writing, had requested repatriation to Japan and who, by free choice, had renounced U.S. citizenship and thereby acquired a single Japanese citizenship or became Japanese subjects and gave allegiance to Japan. (I believe, however, and ever will maintain that the Government's views, suspicion, charges, mistreatment and abuse of them were wholly unjustified).

From sometime during July - August, 1945, through October, 1945, I was called upon by varying numbers of the internees at the Tule Lake Segregation Center to advise them concerning their rights. The first group consisted of six (6) and the next of nineteen (19) persons who consulted me in an office in the W.R.A. Administration Building made available by the management of the War Relocation Authority. The six

gave me the first information I had that anyone had renounced U.S. citizenship and that a program of mass renunciation and of demands for repatriation to Japan had occurred months before. I advised them that if they wished to preserve their rights they first should send notices of rescission of those renunciations to the Attorney General, and notices of withdrawal of their requests for repatriation made to him, the W.R.A., the State Department and the Swiss Legation. I drafted forms of such notices for them at said time and place to copy, sign and mail and then informed them that they should obtain the services of attorneys of their own selection further to advise them and thereupon left the camp.

Thereafter, in compliance with requests to return, progressively larger groups of the internees consulted me concerning their predicament. The police squad ammunition room there was made available as a consultation room by the U.S. Immigration officer in charge. A considerable number of the renunciants and alien members of their families there consulted me. All of these were informed by me of the steps I deemed might be necessary to be taken to preserve their rights. I recommended to each and all of them that they should consult their respective personal or family attorneys whom they knew and in whom they had confidence and any other attorneys they might desire to advise them and to take whatever steps might be deemed desirable, expedient or necessary to preserve their rights. They were told that, in my opinion, it was likely that their respective interests might best be preserved by having as large a number of attorneys as possible represent them singly and by groups, as they might desire, especially as many of these unfortunate people were of the belief that they fell into different factual categories which

might justify different treatment by the government. I advised them that until they had obtained the services of attorneys of their own selection they ought to take the preliminary steps to protect their rights by preparing and sending written notices of rescission of their renunciations and of their requests for repatriation to Japan to the officers and agencies above-mentioned and to keep copies thereof for their own records to turn over to the attorneys they might select to represent them.

All those who consulted me at that Center were informed by me that I personally did not seek or care to embark on any program of representing them, but that if any of them could not obtain the services of other lawyers or did not wish to engage the service of other lawyers but desired me to represent them that I would be willing to represent them only provided 500 or more wished such representation and that in such event I then would undertake to represent such a group only provided that first, as a condition precedent thereto, a retainer fee of $100 was paid to me by each person in such a group and that, in addition thereto, all costs and expenses would have to be defrayed by them and that a reasonable attorney fee would have to be paid to me by each in a sum later to be decided upon dependent upon the nature and results of my services, the time involved, etc., and that, if litigation was necessary my services would be limited to proceedings in the U.S. District Court, at San Francisco, and would exclude any appellate court representation and that in the event the latter was required in the future that all costs and expenses must be borne by them, and in addition thereto, a reasonable attorneys fee for such would have to be

paid by each. The reasons for those conditions were that in view of their internment and impending removal to Japan under the classification of alien enemies, following renunciation and requests for repatriation, it could not then be estimated or foreseen by me, with any degree of clarity, what expenses and work would be required or what the prospect was for success in obtaining their release from detention, or freedom from impending deportation to Japan or what actually could be done about their renounced citizenship. Thereupon, I left the camp.

I never was invited to attend and never attended any mass meeting held by internees at that Center although, as an invitee, in early 1946, I did attend meetings of alien and renunciant clients at Santa Fe and of renunciant clients at Bismarck and Crystal City which were attended by officers of the U.S. Immigration Service. These took place several months after the original suits had been filed and, accompanied by other lawyers, at such meetings I gave them reports on matters dealing with their status and answered their questions.

The internees at the Tule Lake Segregation Center, however, did hold a number of mass meetings in the "colony" of the Center (area from which Caucasians were excluded), at times and places selected for them by the W.R.A. management. These were held after they had conferred with me and were held to determine what course or courses of action they would pursue, if any, and what attorneys, if any, they might engage to represent them. I later was informed that many of them individually and by groups consulted various attorneys and presented their problems to them but that the attorneys consulted either declined to represent them or that they, after consultation, decided not to be represented

by them for various reasons of their own. In consequence, in view of the prolonged detention and the impending danger of deportation I suppose that they, in desperation, turned to me.

The Tule Lake Defense Committee was not formed in 1944. It came into existence after July, 1945, when the internees, following renunciation, were denied release and were held for and threatened with deportation to Japan to be scheduled to take place following the capitulation of Japan, which then was anticipated, and army transports would be available to transport them. They were looking about and hoping for ways and means of preventing this and looking for counsel to advise them of their rights and remedies and to help them. The Committee was formed by the evacuees who were hoping for an escape from deportation to Japan and exploring the possibility of relocation in the United States. The committeemen were selected by popular election at the mass meetings held in camp by the evacuee-internees who ultimately became parties to the various habeas corpus proceedings and equity suits I later filed.

After the internees had held several mass meetings (none of which I attended) a substantial majority of them signified they desired me to represent them with the chief hope that they could be released from internment, be freed from the danger of deportation to Japan and succeed in being relocated in the United States to resume civilian life. None of them then expected that there was even a remote possibility of recovering their renounced citizenship.

Being recalled to that camp in October, 1945, I spent a total of 8 or more days and nights explaining to those who had made such a decision, and also to those who, in the interim, likewise signified they desired me to represent

them what I conceived to be their legal rights and remedies, the steps I deemed appropriate to be taken on their behalf and the nature of the litigation I proposed to institute. I believe that, with very few exceptions, each renunciant in the camp sought my advice during this period and signified his or her intention to have me represent him or her. Each was informed, many individually and the remainder in small groups, in the squad room to which they flocked to consult me, of the precise terms under which I would represent them, in English by me and also in Japanese through an interpreter. All were told that I would represent them in an effort to release them from internment and to free them from the threat of removal to Japan and that I might endeavor to rescind their renunciations. All were told I would require as a condition precedent to my employment that each pay me a "retainer fee" of $100, payable in advance, and that, in addition thereto, they would have to pay all the expenses that might be incurred and all costs and also that each would have to pay me a reasonable attorney's fee in an amount later to be agreed upon by their Committee and me, the amount thereof to be dependent upon the nature of my services, the problems involved, the time consumed and what success, if any, attended my efforts. The reasons why the amount of the expenses, costs and attorney fees could not then be determined with any degree of precision were discussed and explained in detail.

Thereupon some 987 of the Nisei at the Tule Lake Segregation Center in October, 1945, engaged my services in writing to represent them in the hope that they might be released from internment, be freed from the threat of removal to Japan and be permitted to relocate and resume civilian life in this country. None were led by me to believe that

I would succeed in preventing their deportation or in releasing them from internment. None of them expected to recover citizenship and none were led by me to believe that they would. Written agreements were drawn up by me to provide for my representation and presented to them. Under these agreements each signatory renunciant who wished my representation was required first to pay me $100 "as a retainer fee". Each thereunder also authorized their committee to engage my services "on such terms and conditions" as they were able to obtain and "to enter into such oral and written agreements" with me "in connection with said matters "as may be necessary or expedient". Duplicate originals of these agreements are in my possession and, I believe, duplicate originals also are in the possession of the committee. If you wish you may inspect and examine those that are in my possession.

Neither I nor anyone under my authority or direction has ever told any of my renunciant clients that the payment of $100 constituted or would constitute payment to me of anything but the agreed retainer fee. They were specifically told by me and also by their committeemen that it would constitute only a retainer fee and each signatory renunciant to the written agreements which so specify first read the agreements before affixing his signature thereo and could not have been misled. Further, all were told by me after lawsuits on their behalf had been filed when I reported to them at Tule just before the "mitigation" hearings, hereafter mentioned, were given that each must expect, when called upon, to defray all costs and expenses and, in due course, pay me a reasonable attorney's fee, unless the government, disregarding the court orders, abruptly deported them and

rendered futile my efforts and services and possibility of being paid. (This was a distinct possibility and long had been feared because of the line of judicial decisions holding the courts were powerless to interfere with the powers lodged in the Executive by the Alien Enemy Act).

It may be that their committee issued receipts to those in the original group of 987, and additions thereto, if, when and as they delivered any postal money orders or checks to the committee to forward to me. However, I do not recall ever having seen any such receipt or of having been informed that the committee gave any receipts or that it had established a policy of giving any receipts. My records show that those who paid the retainer fee or something on account thereof all paid it in the form of postal money orders or checks. Every one of these was drawn payable to my order. These were delivered to the committee and when accumulated were turned over to me. For its record purposes the committee may have issued receipts to those who delivered such postal money orders or checks to it to forward to me. In corresponderce and in talks with me various committeemen frequently referred to the retainer fees as "pledges" on the part of the renunciants. In consequence, I assume that the committee or committeemen may have issued acknowledgements or receipts to those from whom they received the postal money orders or checks drawn payable to my order to forward to me and that these may have been marked "paid", "paid in full", "fee paid in full" (or on account) or some such equivalent statement. However, I never was made aware, until your letter of January 16, 1953, was received by me that receipts had been issued by the committee to anyone. It was my understanding that each person, on delivering his or her postal money order or check to the

committee inscribed or had his name, committee number, block number and the postal money order number or check clearing house number and the amount thereof inscribed in an alphabetical account book and that this was deemed to be not only an accurate but a sufficient record to prove the delivery to the committees for forwarding to me the sum pledged to be paid for or on account of the agreed retainer fee.

No receipts were requested of me by any of those who engaged my services while at the Tule Lake Segregation Center so far as I recall and I never issued any that I recall. The sums were not remitted direct to me but were delivered to their committee which eventually delivered them to me.

Although each of the 987, and additions thereto, at Tule engaged to pay me as a retainer fee the sum of $100 not all of them have done so to this date. Of the original groups some 600 paid varying sums from $2 on account to the full amount of that retainer fee at Tule and the remainder paid nothing, they then being in detention and unable or unwilling, for various reasons, then to fulfill their commitments and many of them, especially after having been pried loose from detention by me, exhibited a disinclination to pay anything at all. To date, however, I have not abandoned any of them.

So soon as I entered upon this employment I took the preliminary steps I deemed essential before initiating litigation on their behalf, such as sending out notices of rescission of renunciations and of requests for repatriation to Japan, protests over fingerprinting and registration as aliens, etc., and entered into immediate discussions with attorneys in the Justice Department. Being informed by them that no one would

be released from confinement and that preparation for their deportation were under way and that the procedure was being discussed as to the time, place and method of deporting them to Japan, litigation on their behalf was necessitated.

On November 13, 1945, I filed joint, several and mass class proceedings Nos. 25294 and 25295 in the U.S. District Court at San Francisco on their behalf. These were suits in equity against the Attorney General and others to cancel the renunciations and the orders of the Attorney General which approved those renunciations, for declaratory relief and to determine nationality, the suits involving constitutional issues, and also factual issues of duress and incompetency as affecting the validity of the renunciations. On said date I also filed joint, several and mass class proceedings Nos. 25296 and 25297 in habeas corpus in an effort to release them from internment. Orders issued in the habeas corpus proceedings precluding the government authorities from deporting the petitioners pending a final determination of the causes.

Hundreds of those who first had signified they desired me to represent them but who had withheld engaging my services at the last moment, primarily to see what was to happen to those who had, thereupon flooded me with individual requests for representation. A large number of them, however, withheld until a much later time under the belief that if I was successful for those who had engaged my services they might become free recipients of any benefits which might flow therefrom.

Thereafter, pursuant to negotiations, followed by discussions which took place in the Justice Department, it was decided that each of my clients would be given an administrative "mitigation hearing" to cut down the numbers of cases

requiring court hearings in habeas corpus. These hearings were given over a course of time and, in due course, as a result of my negotiations, were given to all renunciants in the Center and thereafter in the alien internment camps at Bismarck, Santa Fe and Crystal City to which camps members of Tule internees had been transferred. All of them conferred with me in advance of their respective hearings. In course of time, as the lawsuits progressed, the Attorney General consented to a cancellation of the blanket and a majority of the individual removal orders he had issued and, in course of time, with the exception of 302 of them, authorized their release from internment and permitted them to return to civilian life branded, however, as aliens and forced to carry alien registration cards for their own protection.

In the meantime, as the cases progressed, hundreds of additional internees from the Tule Lake Segregation Center and the alien internment camps at Bismarck, Santa Fe and Crystal City applied to me for representation by individual requests. Out of some 5,537 renunciants some 4,514 had applied to me as at November 16, 1952, for representation. The latter figure covers renunciants who applied to me while interned, those who during internment were released on Sept. 8, 1947, into my custody by consent of the Attorney General and court order, some 1,500 who had been removed to Japan by our Government in late 1945 and early 1946, and many who, following their release, applied to me while engaged in civilian walks of life.

Judgments in favor of all the petitioners were entered in the habeas corpus proceedings on August 11, 1947. See Opinion in 76 F.S. 664. Judgments were entered in favor of all the plaintiffs in the equity suits on August 12, 1949.

See Opinion in 77 F.S. 806. The respondents in the habeas corpus proceedings and the defendants in the equity suits thereafter appealed to the U.S. Court of Appeals for the Ninth Circuit.

Thereupon the Committee informed each person in the cases that appeals had been taken - that their judgments, therefore, were in jeopardy - and that the final outcome could not be predicted with certainty - that I would represent them on the appeals - and that, in view of the enormous amount of work that had been required, the time consumed, the results attained, the costs and expenses defrayed, and the nature of my services and the success attending those services, each person in the cases should pay to me therefor, aside from the original retainer fee, the sum of $200 on account of costs, expenses and attorneys fees.

A good deal more than the total amount actually paid on the retainer fees was expended in the prolonged effort to release these unfortunate persons from their places of confinement and to carry their causes to their present state. Nevertheless, a great number of those who were fortunate enough to be pried loose from detention and to escape a forced deportation to Japan and, subsequently, following the appeals taken to the Court of Appeals and the denials of the defendants' petitions for certiorari by the Supreme Court, to have had a conclusive judgment entered cancelling their renunciations have exhibited an aversion to paying anything at all. A percentage, however, of this class has paid sums varying from $2 to $300. A somewhat higher percentage of the persons whose cases still are active and await conclusion has paid such varying sums. However apathetic and disinclined some may be toward parting with money, they nevertheless, have exhibited a lively interest in having their renunciations

cancelled. Apparently they are willing enough to participate in the benefits but are somewhat unwilling to assume any of the detriments of the undertaking even though they are aware their failure to pay hampers and handicaps others who have not failed them.

Thereafter, the judgments in the equity suits were affirmed by the Court of Appeals for the Ninth Circuit on Jan. 17, 1951, as to some 1,004 of the renunciant plaintiffs and reversed and reopened, as to the remainder, for the purpose of enabling the defendant governmental officers to introduce in the equity cases additional evidence to meet or overcome the evidence which that Court declared established a presumption that each renunciation was void as the product of coercion (McGrath v. Abo, 186 F. 2d 766). The habeas corpus proceedings were ordered reopened to enable the respondents to introduce competent evidence relating to Japanese nationality laws. See Opinion in Barber v. Aoki, 186 F. 2d 775.

Thereafter, the respondents-defendants applied to the Supreme Court for certiorari as to those in whose favor judgment had been affirmed and I applied to that Court for certiorari for those renunciants whose cases had been reopened by the Court of Appeals. The Supreme Court denied the petitions and cross-petitions for certiorari on Oct. 8, 1951. The judgments in equity cancelling the renunciations of 1,004 and the orders of the Attorney General approving them thereafter became conclusive when the orders executing the mandates of the Court of Appeals were entered on May 29, 1952, in the district court and the remainder of the cases were reopened. The reopened equity cases now are pending

there for final disposition. In the interim, I am negotiating with Justice Department lawyers with a view to obtaining an agreement on a plan whereby the reopened cases may be disposed of satisfactorily and by avoidance of as many individual trials as may be possible.

The last 302 renunciants who were in the habeas corpus proceedings and still under removal orders of the Attorney General and who had been released into my custody and returned to their homes on Sept. 8, 1947, finally were released from internment and removal orders on April 30, 1952, following the ratification by the Allied Powers of the peace treaty with Japan and, in consequence, the issue of detention thereupon becoming moot I dismissed the habeas corpus proceedings.

A number of the committeemen and a number of the renunciants at various times have suggested to me that I should dismiss any persons in the cases who refuse to pay the initial retainer fee plus the additional sum of $200. They were told by me, however, that I would not dismiss anyone from the cases except by such a person's specific written request. I have never informed anyone that I would dismiss anyone for nonpayment. Various committeemen and others have been told by me that if a special individual court hearing finally is required for any plaintiff in the active suits and such person has not paid and refuses to pay, having the ability so to do, that it will be impossible for me to represent him or her at such special trial or to prosecute an appeal from any adverse judgment in such case and that, in such event, it might become necessary, at that state, if such person's renunciation is not previously

cancelled as a result of my negotiations with Justice Department lawyers, for me then to withdraw from such individual case, upon proper notice, and have such person substituted in propria persona if he so wishes, or have him obtain the services of another attorney to be substituted as his counsel, as he may see fit. I have told them that if such a person, however, insists that his individual case be dismissed that I would dismiss it only upon his written request after it first had been pointed out and been made perfectly clear to him that in such event, in my opinion, his political status would be either that of an alien, a stateless person or, where dual nationality existed at the time of his renunciation, the likelihood that he became a Japanese national and that, except if he thereafter could prevail in a direct or collateral attack upon his renunciation by administrative remedy or by a suit in equity to cancel it or by a suit for declaratory relief or to determine nationality against a possible defense of laches or the statute of limitations, he might be barred from a successful assertion of the invalidity of his renunciation, and that in such an event he could try to have a special bill introduced in Congress to recover citizenship or seek naturalization.

Although I have not seen the letter from the committee to which your "Statement Of Alleged Facts" refers I assume that the language "If you refuse to pay your share it probably will become necessary for Mr. Collins to stop representing you or to dismiss you from the law suit. If you are dismissed you will acquire the status of an alien in the United States" represents the committee's own but somewhat slightly inexact interpretation of my above explanation theretofore made to

them of possibilities and probabilities that might arise in the future. (The Attorney General, subsequent to the time of renunciation, sent each of them a letter notifying them that they were "aliens" and thereafter compelled them to register as "aliens", albeit I had them protest the classification. As late as November, 1952, the then incumbent Attorney General by affidavit filed in the cases indicated indicated they still officially were considered to be "aliens". I suppose, too, that a presumption exists until and unless the renunciations are cancelled that they are aliens.) It is my opinion that if a plaintiff were dismissed that there would be little doubt that he would be classed as an alien and that he probably would not be able to invalidate his renunciation by litigation if the defense of laches or bar of the statute of limitations were urged. The Justice Department lawyers heretofore informed me that the Attorney General would not waive those defenses in litigation and, in view of that, I filed another mass class suit in equity, Akata v. Clark, to protect additional renunciants who applied to me after the above-mentioned equity suits had been submitted. In consequence, I am at a loss to ascertain wherein the quoted portion of the committee's letter is subject to criticism.

Shortly after the Japanese Evacuation Claims Act of July 2, 1952, P.L. 896,62 Stat. 1231, had been enacted I received a number of inquiries from my clients in these cases as to whether or not they as renunciants were barred from benefiting thereunder. As I construed the Act there was nothing to preclude them from filing claims. However, I believed questions might arise as to the right of recovery for losses sustained by those who had been regarded as dual

nationals and had been interned and those still on the alien enemy removal order list in view of the fact that the lawsuits had not yet arrived at a conclusive stage and, in consequence, I decided to ascertain the views of the Attorney General concerning these matters so as to be better able to advise them.

A number of my clients told me that they intended to handle their own claims, a number said they wanted lawyers to handle their claims and a number informed me they intended to have laymen representatives or friends handle their claims. When I questioned those who gave the latter reason I was told that laymen were authorized to prepare claims and represent them according to announcements they had read emanating from the Justice Department which had appeared in various Japanese-American language newspapers. (Such announcements were published. For examples, see the Rafu Shimpo of Aug. 5, 1948, Issue No. 13, 453, to the effect that Justice Department officials construed the word attorneys broadly to mean any and all persons who counseled or aided claimants and was not restricted to meaning lawyers. See also the Nichi Bei Times, No. 62 of Aug. 6, 1948, for like announcement.)

I was informed by several persons about this period that the Anti Discrimination Committee, the Japanese American Citizens League and other organizations and individuals had applied to the Justice Department for clarification on this point and that they had been informed that persons other than attorneys at law were authorized, by the statute and under the policy of the Attorney General, to handle claims for claimants, and that any friend, or representative of a claimant or an attorney at law was authorized so to do.

To learn what the official views of the Attorney General were on the right of renunciants to recover under the Act and to verify whether laymen could handle these claims I telephoned to the Justice Department and spoke to an attorney in the Claims Division. It was Enoch E. Ellison, Esq., attorney, Claims Division, if my recollection is correct, to whom I spoke. I inquired of him whether the Attorney General intended to contest the right of renunciants to recover for losses thereunder and was informed that the policy as then formulated was to recognize their right to compensation for loss due to evacuation if they were not among those who had been deported to Japan. I also asked him if it was true, as had been reported, that laymen as well as attorneys at law were authorized to prepare claims and represent claimants thereon or whether these matters were limited to attorneys at law. He informed me that the Department's interpretation of the statute and the policy as then formulated by the Department thereunder was that laymen as well as attorneys could prepare such claims and represent claimants. I was told that the claims were to be filed with the Attorney General at Washington, D.C., where they were to be considered and acted upon. I was told also that the word attorney in the statute was not construed by the Department to be restricted to attorneys at law, but to include anyone, regardless of profession, who might help, aid or give counsel to claimants in the preparation of claims forms or who represented them on said claims.

Because of the enormous amount of work and time required of me in the handling of pending litigation I blanketly declined to represent any of my renunciant clients in the

cases who requested my services concerning such claims. To answer their inquiries and to forestall further inquiries from them I informed them in a printed letter dated October 5, 1948, that the renunciants in the cases, excepting those who had been deported to Japan, could file such claims.

My clients in these cases were in enough trouble already as a result of their renunciations. I was interested in having them avoid any complications which might injure their cause. I anticipated the possibility that trouble might arise for any of them who handled their own claims or had laymen friends handle claims for them because, as a result of misstatements therein, there was danger they thereafter might be subjected to criminal prosecution on charges of having filed false claims with a federal agency. To dissuade them from handling their own claims and from having laymen handle claims for them I pointed out to them in my letter of October 5, 1948, that the filing of a false claim was made a criminal offense under Title 18 U.S. Code, Sec. 80, and warned them against having "private agencies" handle them. It was my then belief that the warning therein contained would persuade them to engage lawyers to handle their claims.

In that letter I unqualifiedly recommended the names of five attorneys at law, each specified in <u>italics</u> to be an "attorney," as persons familiar with the procedure relating to such claims and as being fully competent to prepare claims and to represent them if any hearings might be required thereon. Four of them were and are able and reputable lawyers who then and now are members of the California State Bar who long had represented Japanese (Issei and Nisei) clients and were acquainted with the recently enacted legislation thereon.

The additional one then was and now is a member of the bar of Washington, D.C., who, a short time previously, had been an attorney in the Justice Department. He was and is an able lawyer who had first hand information concerning the history and purpose of that legislation and of the administrative policy and procedure relating thereto as it then had been and was being formulated. He was acquainted with the forms which had been decided upon and were then either in the hands of the Government Printing Office or had just been printed and were being distributed. I also therein recommended Mr. Tetsujiro Nakamura, not as an attorney however, but qualifiedly, as a person "who will help you or refer you to a lawyer". Mr. Nakamura was not a member of the bar. However, he then was familiar with that legislation and its history, with the nature and contents of the claim forms which finally had been decided upon by the Justice Department, samples of which already were in circulation, and if I recall correctly, he had applied to the Justice Department for a quantity of the forms to be delivered to him when available for distribution. He had been an evacuee confined to the Tule Lake Segregation Center where he had been appointed the assistant legal officer by the W.R.A. In that capacity he acquired knowledge concerning the losses of evacuees in his official capacity. The W.R.A. long had engaged in gathering information thereon for the ultimate purpose of presenting its factual findings on this matter to Congress with its proposals for relief legislation covering evacuee losses. He was equally fluent in the English and Japanese languages and was personally known to each of my clients in the cases and was one of their committeemen.

The very purpose of that qualified reference to Mr. Nakamura was to enable the affected renunciants in the cases who were in the Los Angeles area to procure claims forms from him, for him to help them in filling out those forms, particularly as interpreter and typist, and that if it appeared that any claim presented any difficulties or complicated questions that he would refer them to lawyers. I hoped, of course, that he would not refer them to those certain attorneys who had gone out of their way to injure the causes of the renunciants whom I represented but lawyers who would be willing to handle such claims (and there were many who would not), preferably from the ranks of Nisei lawyers in the area who were known to him but not to me, and that such a procedure also would prevent them from falling into the hands of certain organizations actively engaged in soliciting such claims. The warning statement therein directing attention to the fact that Title 18 USCA, Sec. 80, makes it a crime to file false claims with a federal agency was intended by me to put them on notice and to guard them against seeking the service of laymen and those organizations and was designed to persuade them to consult lawyers but not those who, as already known to them, had endeavored to injure their causes.

I did not intend or understand by that qualified reference nor did Mr. Nakamura thereby understand nor could any of my clients have gained the impression from any language therein that he was a lawyer or was recommended to do anything for any of them who might have a claim except to deliver to such a person in the cases, on request, a claim form and to assist such person in filling it out and mailing it to the Attorney General, Washington, D.C., and, if any

questions arose in connection with the preparation thereof or if it appeared that ultimately a hearing of some kind might be required thereon that he could refer such person to an attorney. I am unable to ascertain how such a qualified recommendation could form the basis of complaint when, had I been so minded, in the light of the information I then had on the matter, I could have recommended him unqualifiedly, under the Attorney General's then construction of the statute and his policy, as a layman qualified to prepare and represent claimants thereon at hearings, if required, before his Department and when he would have been entitled to fees for such, if awarded to him by the Attorney General.

In that letter of October 5, 1948, I pointed out to them that the Attorney General was authorized to make awards on claims up to $2500 and was authorized "to determine a reasonable attorney's fee" not exceeding 10% of the amount awarded which was to be deducted and paid "to the attorney" who represented a claimant. (This did not refer to Mr. Nakamura because he was not an attorney and was not referred to therein as such). Although it originally had been planned that the Attorney General was to make the award and to determine the attorney fee and to deduct the amount thereof from the award and pay it direct to the attorney it is my understanding that subsequently that plan was changed. I believe that no deduction now is made and that the Attorney General pays the whole award direct to the successful claimant.

The procedure, at the outset and as existed on Oct. 5, 1948, consisted simply of filling out the claim forms and forwarding them to the Justice Department, Washington, D.C.

For some time Congress did not appropriate sufficient funds to administer the Act or to pay awards. The hearing that then existed was nothing but the simple filing of the claim with the Attorney General (Claims Division, Justice Department) in Washington and then awaiting a decision thereon. The procedure governing the processing of claims has been changed from time to time. In course of time Congress appropriated money to administer the Act. The Justice Department claims agent's office for processing claims was not opened in Los Angeles until July, 1949, and that in San Francisco until March, 1950. The Act is novel - it even provides that the Attorney General may assist needy claimants in the preparation and filing of claims. Its administration is novel. Apparently no special set of rules of procedure had been prescribed by the Attorney General although it appears that to guide his staff in administering the Act he issued mimeographed instructions relating generally to questions that arose. I am informed that the procedure that finally evolved is as follows: -- the claim form is examined and thereupon the claims attorney makes a temporary award - the claimant may take exception thereto whereupon these are weighed by him and he makes a report to the Attorney General who is empowered to act thereon. No appeals seem to have been provided. I am also informed that the practice in San Francisco seems to be that lawyers frequently appear to represent claimants on claims that have been filed with the Attorney General, and which, for one reason or another, are given informal hearings by the local claims attorney and that when laymen appear for claimants they are informed by the claims attorney they may appear only as friends, witnesses or as observers.

Very truly yours,