

## National Council for Japanese American Redress

925 West Diversey Parkway  
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November, 1983

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Dear Friends,

Our invasion of Grenada churned up old feelings and reinforced newly acquired suspicions. It's Gree-nay-dah, not Grah-nah-dah. (Granada's the name of a concentration camp, not a car.) Our President says rather testily (11/3/83) that it wasn't an invasion—it was a rescue mission. Please ignore the absence of any threat to the students who were "rescued"; the fact that there wasn't any threat proves that there might be. (The fact that Japanese-Americans performed no acts of espionage or sabotage only proves that they probably will, don't y'know?) A Supreme Court Justice says that we shouldn't call them "concentration camps" and forty years later, the Commission on Wartime Relocation and Internment of Civilians continues the compliance and calls them "relocation centers."

And on the same day that our President declares a non-war, our State Department cites "the 1907 Hague Convention Respecting the Laws and Customs of War on Land and the 1949 Geneva Convention on prisoners of war in wartime as the basis for holding more than 600 prisoners in Grenada and on warships offshore," according to the New York Times. Our "rescue mission" rounds up 600 prisoners of war.

Our President tells us that the Governor General, a functionary in the British Commonwealth who reports to the British sovereign, requested that we invade Grenada with military force. But Queen Elizabeth protests—imagine that!—because her Governor General made no such communication to her.

And when the United Nations General Assembly votes overwhelmingly against the invasion because it violates its charter to which we are a signatory, our President announces that he wouldn't let it spoil his breakfast.

And when the polls are taken, following our President's televised address, we learn that we, the people, endorse his action.

**SO NOW**, dear friends, when people ask, "How could the illegal, unfair, racist internment of Japanese-Americans have happened?" you needn't look very far. Two years ago, John J. McCloy made this prophetic statement:

"Within 90 miles of our shores (there are) a hundred, roughly a hundred thousand people, thoroughly trained, thoroughly equipped, well trained in modern warfare, that are being set up to serve as proxies for the Soviet Union in various strategic parts of the world. Suppose there was a raid some 10, 20, 30 years hence on (Florida), wouldn't you be apt to think about moving them, (Cuban Americans,)—if there was a raid there? You can't tell."

He made this statement before the CWRIC in an attempt to stand solidly behind his decisions as Assistant Secretary of War implementing the program of exclusion



and detention of Japanese-Americans in 1942 and to affirm them as part of a policy consistent with present day and even future realities. The statement is prophetic in its definition of the Cuban threat as perceived in the Grenada incident. McCloy's power must be respected as "The Most Influential Private Citizen in America." ( Harper's, February, 1983 )

"Wouldn't you?" he asks. President Reagan, the Secretary of Defense, the Joint Chiefs, the Congress, and the American people have answered part of that question. Now what would you do—if you were a Cuban American living in Florida?

**THIS SEEMS** hardly the spirit in which to greet the season of cheer and Saturnalia. I get this feeling we're on the wrong side. We make war and call it peace. We overtly support a covert military presence "peace-keeping" in a land obviously torn by war. We call a successful military attack against a military encampment by an explosive laden truck "murder" while we called the thousands of tons of explosives dumped indiscriminately on the Vietnamese countryside "pacification." We invoke the image of thugs and other ideological evil while committing evil and illegal acts.

( One of the deep ironies of international tensions today is the universal affirmation of the goal of democracy by parties who are at each other's throats and their agreement for the pragmatic need for authoritarianism as a means of reaching the goal. Remember when we used to say that the ends never justified the means? )

A U.S. casualty in Grenada was a Sansei, Army Ranger PFC Mark O. Yamane of Seattle, Wash.

**BUT CHRISTMAS** first occurred in not such dissimilar conditions. Palestine was under imperial rule and the rigidities of religion ostracised humans not because they had sinned but because it was presumed that sin had caused their disability, be it leprosy, blindness, deafness; because their ideology was different and threatening; because they violated sexual taboos; because they failed to conform to established rituals.

The birth that is celebrated by Christians at Christmas is of a person who challenged all this, was vigorously opposed, and finally seized and executed—and began movements of liberation, new orthodoxies, new challenges, new aspirations.

So perhaps our discomfort is not with the organization of the season but only with its most recent corruption into inebriated *gemutlichkeit* and tinselled extravagance.

Back to the source! Merry Christmas! y'all, minasama—in Manitoulin Island, Toronto, Nova Scotia, Booth Bay Harbor, Boston, West Chatham, Portland, Hoboken, New York, the Bronx, Philadelphia, Baltimore, Washington, Falls Church, Arlington, Arcadia, Canton, Detroit, Ann Arbor, Evansville, Chicago, Glenview, Northlake, Evanston, Naperville, Elgin, Galena, Peoria, Des Moines, Denver, Phoenix, Salt Lake City, Apple Valley, San Diego, La Jolla, Orange County, Long Beach, Gardena, La Habra, Van Nuys, Monterey Park, Los Angeles, San Gabriel, Burbank, Pismo Beach, San Jose, San Francisco, Oakland, Berkeley, Cottage Grove, Portland, Puyallup, Seattle, Hawaii, Japan—where ever you are!

Peace!

*William Hohri*

William Hohri



overturned . . .

**T**he day was Thursday, November 10, 1983, when Federal District Judge Marilyn Hall Patel vacated Korematsu's 40-year-old conviction and dismissed the indictment on which it was based.

In accepting Korematsu's petition for writ of error coram nobis, Judge Patel said, "The very nature of this conviction is an injury to a citizen because it says he is disloyal. The Korematsu case stands as a caution that in times of war, our institutions should be even more vigilant in protecting the constitutional rights of individuals."

The effort to overturn the cases involved over 100 people and over 9,000 hours of legal work.

"The personal and financial cost to the lawyers and staff is a comment on their commitment," said Korematsu's lead counsel, Dale Minami. "The issue was so important and the injustice so great that they wanted to correct this great wrong."

The lawyers for Korematsu said the three goals of the coram nobis effort were personal vindication for the defendants, to set the record straight about the unfounded and unjust nature of the World War II exclusion and internment of Japanese Americans and to insure the checks and balances system of the Constitution.

Attorney Lorraine Bannai, assisting in the Korematsu case, said that they wanted the government to issue a statement on why they chose to vacate the conviction. "The government answered by not answering at all," said Bannai.

"Up until now," said Minami, "there has not been a judicial declaration that what was done to Japanese Americans was wrong and unconstitutional."

Judge Patel told an overflow crowd of over 200 [most of them Nikkei I, that the government's "meek" response to the petition "amounted to an admission of error."

**ACCORDING** to Minami and Bannai, the government had been having troubles dealing with the coram nobis petition since its filing in January, 1983. The Department of Justice had asked for several extensions of time in which to answer to allegations contained in the petition. Then the decision was to vacate the conviction.

The U.S. Attorney's Office first offered Fred Korematsu a pardon. Fred said, "No." Then they offered a pardon of innocence. That also was refused. The last offer was a pardon with apologies. Having waited 40 years for a chance to reopen his case, Korematsu held fast.

**ALL BUT ONE** of the Japanese American members of the Coram Nobis legal team are Sanseis, who were born after the war. Why are they so committed to cases that were ruled on 40 years ago?

"It was through the struggles of our Nisei parents that we were able to become lawyers," said Dale Minami. "Now we have the opportunity to repay in a small way what was given to us."

The motto of the Coram Nobis legal team happens to be "GO FOR BROKE!"

Related developments elsewhere are Min Yasui's case in Portland, Oregon and Gordon Hirabayashi's in Seattle, Washington. Yasui's attorneys are expected to file a response to the government's motion to dismiss by November 30th. A tentative date of December 9th for an oral hearing has been set to decide on whether to dismiss Hirabayashi's case.

( Edited )



personal . . .

Because Fred Korematsu's words say so much, and expresses the frustration many of us as former internees experienced—and kept within ourselves all these years—we feel that this declaration in support of his reply to the government's response and motion to vacate his conviction should be shared.

**W**hen I was in school, we started each day with the pledge of allegiance to the American flag. I studied American history and the Constitution of the United States and believed that persons born in this country were free and had equal rights.



I have always been a good American citizen. I was willing to defend my country. Before the attack by Japan on Pearl Harbor in 1941, I had tried unsuccessfully to join first the National Guard and then the United States Coast Guards. My Caucasian friends were accepted but I was turned down. Later I participated in defense work until the union forced me out without a real reason.

When the exclusion order was posted on telephone poles in 1942, I felt angry and hurt and confused about my future. I could not understand how the United States government could do this to American citizens without a hearing or a trial. It was not right that all Japanese Americans were interned while Americans of German and Italian descent were allowed to be free.

**FOR FORTY YEARS**, I have carried with me the remembrance of being treated as a criminal and classified as an enemy alien of the United States even though I was born in Oakland, California. I feel that as an American citizen, I did not do anything wrong. I have always felt that the United States Supreme Court's approval of putting American citizens in concentration camps on the basis of race is unforgivable and should be corrected.

I want you to know that Japanese Americans are loyal American citizens and obey the laws of the land. They were made to feel shame and suffered by being forced to live in horse racing track stalls and then in concentration camps.

Many Japanese Americans have either told me in person or written letters to me saying that support me in my fight to clear the record. They feel I am fighting this case for them as well as for myself. It is important for them as well as for me that the United States government admit that it was wrong when Japanese Americans were forced out of their homes and put into concentration camps.

**I HAVE SUFFERED** personal hardship because of the criminal record that was given to me. On application forms for real estate broker's license, Civil, State or City jobs and jobs in large corporations, the question of whether you have a criminal record made me feel it was useless to apply. Therefore, retirement benefits have been unavailable to me. Also, during the years I have received forms from Municipal and Superior courts for jury duty. They also asked if I had any criminal record. After answering that I did have a record, I was never called to serve. It seemed this injustice done to me would be with me the rest of my life. Racial prejudice is still with us. As long as my record is still in the Federal courts, any American citizen may be forced into embarrassment and concentration camps for the reason they look like the enemy which our country is engaged in war.

I hope my case is settled in such a way that it can never be used as an example to treat others as the Japanese Americans were treated.

I declare under penalty of perjury under the laws of the state of California that this declaration is executed at San Francisco on October 31, 1983.

— FRED TOYOSABURO KOREMATSU



objectivity...

**T**he movement for Japanese American redress is altering the course of history. Some of the changes are diffuse and elude easy identification. The movement spreads through our community by conversations, an occasional radio or television broadcast, letters to the editor, a meeting here, some organizing there.



PETER IRONS

Other changes are substantial, such as the published report of the Commission on Wartime Relocation and Internment of Civilians (it will, I hope, replace General DeWitt's "Final Report" as an official government reference.), congressional legislative proposals, legal petitions for coram nobis by Korematsu, Hirabayashi and Yasui, and a class action lawsuit for \$26 billion by the National Council for Japanese American Redress.

**NOW WE HAVE** Peter Irons's "Justice at War, The story of the Japanese American Internment Cases." It says things that have needed saying for 40 years. It gives us new insights into the judicial process that shaped the course of our history. It is a model of clarity and objectivity. It illuminates and focuses upon the activities of governmental officials and judges, who were, when not shapers and movers, pushers and prodders of the decisions that rationalized into lawfulness the unprecedented exclusion and detention of a mass of people on the single criterion of race.

Professor Irons is one of several persons my good friend, Aiko Yoshinaga, a researcher, has met and infected with her knowledge of primary documents relating to the unhappy event and unearthed from the National Archives and elsewhere. The linchpin of the government's arguments in the Supreme Court test cases was the doctrine of military necessity. The doctrine rested upon both factual allegations and the recommendations of official intelligence, initially guarded as secret.

Recent research, made possible by the Freedom of Information Act and the declassification of military secrets, reveals that the doctrine was contradicted by facts and by the assessment of the Office of Naval Intelligence, the agency primarily responsible for determining the risk posed by the Japanese American population. Attorneys in the Department of Justice—one of the allusions in the title—were well aware of the contradictions as they prepared briefs for the government's position for the Court. Did they not have a legal, ethical and moral duty to advise the Justices of their misgivings? Failing that, shouldn't they have resigned? What effect might the missing information have had on the Justices? The issues that percolate through the book are tantalizing and sobering.

Irons, however, suffered from no such doubts. As an attorney, he saw the possibility of the defendants filing for a writ of error, coram nobis, petition to the Court to have their convictions vacated. He found three of the former defendants willing and initiated one of the most imaginative and successful actions of the movement for Japanese American redress.

**A COMMON USE** of history is to dramatize and to focus on the extraordinary, to make certain events "historical" and make bigger than life certain personages, in order that they "go down in history." You can see such history used to buttress the authority and lineage of a ruling class or to canonize a favored religion. But Irons uses history to make us all more human and limited. The Chief Justice of the Supreme Court actually believed that evacuation to an Assembly Center did not necessarily lead to detention in a Relocation Center. This is an important point since while the Assembly Center could be viewed as part of the exclusion order issued by President Roosevelt, the Relocation Center was viewed



as detention, for which there existed neither presidential nor congressional authorization.

Fred Korematsu, the Chief Justice reasoned, in being ordered to an Assembly Center was not thereby being ordered into a Relocation Center. Hence, he was violating only an order for exclusion, not for detention. This, of course is incorrect. The Assembly Centers were merely a way station to detention. In fact, Manzanar, the first Assembly Center, became a Relocation Center by a shuffle of paper. (Of course, the terms "Assembly Center" and "Relocation Center" were merely official euphemisms for prison camps.)

But the human failings were not all the government's. Irons is refreshingly objective. One of my heroes of this period is attorney Wayne Collins, who represented Korematsu. I count him among my heroes for his willingness to represent renunciants and repatriates, the Peruvian Japanese and Iva Toguri. But Irons points out the failure of Collins to concentrate on the critical legal issues involved in his client's defense and to use, instead, a shotgun approach, peppered with rhetorical excesses.

A FAR MORE serious failing occurred within the ranks of the American Civil Liberties Union whose national board made the fateful decision not to attack the constitutionality of the President's executive order number 9066, with the result of seriously compromising the entire question of civil liberties. The effect of this decision was substantial because the ACLU withdrew support in the form of money and advice and then, when injecting itself into the cases at the Supreme Court level, failed to argue critical constitutional issues.

Although it is not a major point, Peter Irons performs a significant service for the Japanese American community by stating, "As an alternative to resistance, and with the hope of heading off more Draconian measures than voluntary migration, the JACL adopted a strategy of collaboration with governmental intelligence agencies through the enlistment of its leaders as informers on Japanese Americans suspected of disloyalty." This is a truth that is apparent to those who have studied primary documents, especially those from the Department of Justice. Why has it taken so long to find its way into the historical account? That is a question for earlier writers.

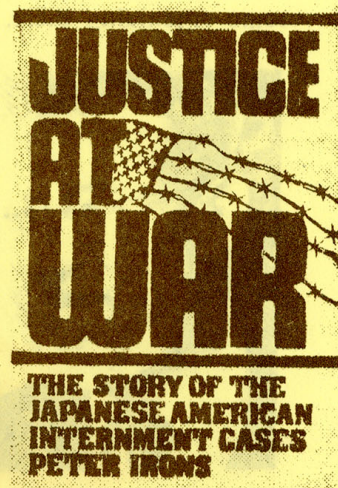
— WILLIAM HOHRI

This book review appeared in both the RAJU SHIMPO and the New York NICHIBEI.

Friday, November 11, 1983

SAN FRANCISCO (AP) Peter Irons, a constitutional law expert and political science professor at the University of California-San Diego, whose research helped revive the Korematsu case, said Judge Marilyn Patel's decision undermines the Supreme Court ruling.

"I think the significance is that [the judge] based her decision on the grounds we raised in our petition; that is the government had suppressed, and destroyed evidence that, if it had been presented to the Supreme Court... in 1944, [I would have led the court to make] a different ruling in the Korematsu case," said Irons.





procedure . . .

**A** redress bill requested by the JACL was introduced on October 6 as HR 4110, the Civil Liberties Act of 1983, although it was legislation of monumental significance to Japanese Americans, it was dropped in the hopper with little fanfare.

Introduced by House Majority Leader Jim Wright, HR 4110 carried considerable weight with principal sponsorship by the House leadership: majority whip Tom Foley, Democratic caucus chair Gillis Long, House Judiciary Committee chair Peter Rodino; Norman Mineta and Robert Matsui, both important principals on any bills dealing with Japanese Americans; and Mike Lowry, author of the Lowry redress bill.

HR 4110 was referred to the House Judiciary Committee and subsequently referred to its subcommittee on administrative law and governmental relations, chaired by Sam B. Hall of Texas. Because of the subcommittee's calendar, it appears that the earliest possible dates for hearings will be after February 1984. However, since regulatory reform legislation is scheduled for "markup" (i.e., changes of legislative language or content, literally marking up a bill) in February, it's very possible that the hearing schedule on HR 4110 may get pushed back even further because of the difficult nature of the bill on regulatory reform.

That hearings on HR 4110 may not take place until March or April isn't altogether disappointing because it allows us time to work on necessary preparations. Obviously, the JACL will wish to present both oral and written testimony to the subcommittee, and there is a great deal of other preparatory work to be done prior to the hearings.

**ALTHOUGH** we have no specific information, it's reasonable to assume that Chairman Hall will place both the Wright and Lowry bills before subcommittee for consideration at the hearings. Only one bill, however, will report out of the subcommittee. In this regard, it seems likely that HR 4110 will be viewed as the major legislative vehicle because of the weight of its sponsorship and because it seeks a lesser amount than the Lowry measure.

The hearings themselves don't determine that a bill will report successfully out of committee, nor do they guarantee that the bill will necessarily be sent to the full committee within a short time frame. The chairman of the subcommittee must schedule a markup session on the legislation, but this could come at any time or it could come not at all. If markup takes place, the bill either reports out in its amended form or be killed in the subcommittee.

**THE TASK** that faces us is to do what we can to insure that HR 4110 will report out to the full Judiciary Committee as much in tact as possible. Once this happens, then the full committee will consider the bill, after which it goes to the floor of the House via the Rules Committee.

A difficult course for any bill, but thankfully this measure isn't facing sequential referrals into a number of different committees. But even with the single committee referral, it's going to be very difficult to get any bill with a large appropriations successfully through the House. We have our work cut out for us.

And then there's the Senate bill, which is expected to be introduced sometime in November . . .

John Tateishi

PACIFIC CITIZEN

Friday, November 11, 1983

● Rep. Mike Lowry (D-Wa.) was defeated by Gov. Dan Evans (R) in the November 1 election in the State of Washington. Evans fills the Senate seat formerly occupied by the late Sen. Henry "Scoop" Jackson.



ironic...

**O**n December 10, 1941—months before the issuance of Executive Order 9066—then Attorney General Francis Biddle had this to say:

"There are living in the United States today aliens who make up 3½ per cent \* of our total population. These aliens for the most part are here legally and are loyal to this country's institutions. Many of them are 'aliens' in the technical sense of the word only. Four out of five of them have family ties in this country—in most cases, American-born children.

"The great majority of our alien population will continue to be loyal to our democratic principles if we, the citizens of the United States, permit them to be. As a matter of justice and out of duty to our country and to our own institutions we must, therefore, foster their loyalty and give it our encouragement. We must remember, especially, that most of those who came here from other lands did so because they revere and respect the freedoms which America is able to offer them.

"SO LONG AS the aliens in this country conduct themselves in accordance with the law, they need fear no interference by the Department of Justice or by any other agency of the Federal government. They may be assured, indeed, that every effort will be made to protect them from any discrimination or abuse.

"This assurance is given not only in justice and decency to the loyal non-citizens in this country, but also in the hope that it may spare American citizens in enemy countries unjust retaliation.

"The defense of our country will be hurt, not helped, by persecution of our non-citizens. If we create the feeling among aliens and other foreign-born that they are not wanted here, we shall endanger our national unity. Such an impression could only give aid and comfort to those enemies whose aim it is to infect us with distrust of each other and turn aliens in America against America.

"To do this would be to defeat what we ourselves are defending."

\* This figure included German and Italian aliens in addition to the Issei, who were prohibited by law from applying for citizenship.



unforgettable...

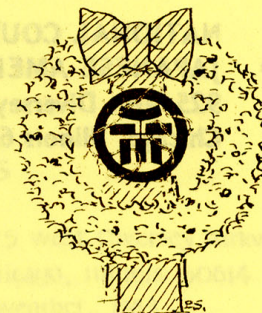
**I**n light of the first anniversary commemoration of the Vietnam Veterans Memorial held recently on November 11, 1983, Nelson Kitsuse, Merry Omori and Tom Okawara took the opportunity—while in Washington, D.C. for the oral argument hearing—to get a glimpse of the controversial monument referred to as "The Wall":

Located between the Lincoln Memorial and the Washington Monument, the 496-foot-long wedge of black granite—with 58,007 names inscribed—symbolizes the hated war that was fought in Vietnam.

The quiet feeling felt by the three at the site of the Memorial was one of sadness and regret.

As Vietnam veterans weep openly, the question that is asked again and again is, "They died for what?"





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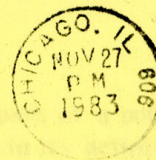
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11/83