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In my judgment, the Commission Report does not emphasize enough the failure of the Judiciary in protecting the rights of a minority in times of emergency against the abuses of the Legislative and Executive Branches, as well as an angry and hysterical general public. Professor Peter Irons of the University of California, San Diego, a graduate of Harvard Law School and a Ph.D. from Boston University, exposes the failure of the Judicial System in his most recent book "Justice At War: The Story of the Japanese American Internment Cases".

On the other hand, again in my judgment, the Commission Report also fails to credit the JACL for its leadership in those critical days. Had the JACL not been able to persuade the overwhelming majority of the Nikkei population on the West Coast to collectively collaborate and cooperate in the mass movement as its supreme gesture of loyalty to the United States, and had armed troops been forced to resort to violence to remove these people from their West Coast homes and associations, I believe that the Army would have retained control and that the civilian War Relocation Authority would never have been created to administer these camps. Most likely had the Japanese American minority not demonstrated their loyalty under the most difficult of circumstances, their status and so-called acceptance today would be far different and more hostile and antagonistic than it is.

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Part 2 of the Commission Report recommends five measures that have been incorporated into H. R. 4110, noting that "Each measure acknowledges to some degree the wrongs inflicted during the war upon the ethnic Japanese. None can fully compensate or, indeed, make the group whole again." The several forms of remedies comprise "an act of national apology" in the words of the Commission.

1. The Commission recommends that Congress pass a joint resolution, to be signed by the President, which recognizes that a grave injustice was done and offers the apologies of the nation for the acts of exclusion, removal and detention.

2. The Commission recommends that the President pardon those who were convicted of violating the statutes imposing a curfew on American citizens on the basis of their ethnicity and requiring the ethnic Japanese to leave designated areas of the West Coast or to report to assembly centers. The Commission further recommends that the Department of Justice review other wartime convictions of the ethnic Japanese and recommend to the President that he pardon those whose offenses were grounded in a refusal to accept treatment that discriminated among citizens on the basis of race or ethnicity. Both recommendations are made without prejudice to cases currently before the courts.

3. The Commission recommends that Congress direct the Executive agencies to which Japanese Americans may apply for the restitution of positions, status or entitlements lost in whole or in part because of acts or events between December 1941 and 1945 to review such applications with liberality, giving full consideration to the historical findings of this Commission. For example, the responsible divisions of the Department of Defense should be instructed to review cases of less than honorable discharge of Japanese Americans from the armed services during World War II over which disputes remain, and the Secretary of Health and Human Services should be directed to instruct the Commissioner of Social Security to review any remaining complaints of inequity in entitlements due to the wartime detention.

4. The Commission recommends that Congress demonstrate official recognition of the injustice done to American citizens of Japanese ancestry and Japanese resident aliens during the Second World War, and that it recognize the nation's need to make redress for these events, by appropriating monies to establish a special foundation.

The Commissioners all believe a fund for educational and humanitarian purposes related to the wartime events is appropriate, and all agree that no fund would be sufficient to make whole again the lives damaged by the exclusion and detention. The Commissioners agree that such a fund appropriately addresses an injustice suffered by an entire ethnic group, as distinguished from individual deprivations.

Such a fund should sponsor research and public educational activities so that the events which were the subject of this inquiry will be remembered, and so that the causes and circumstances of this and similar events may be illuminated and understood. A nation which wishes to remain just to its citizens must not forget its lapses. The recommended foundation might

appropriately fund comparative studies of similar civil liberties abuses or of the effect upon particular groups of racial prejudice embodied by government action in times of national stress; for example, the fund's public educational activity might include preparing and distributing the Commission's findings about these events to textbook publishers, educators and libraries.

5. The Commissioners, with the exception of Congressman Lungren, recommend that Congress establish a fund which will provide personal redress to those who were excluded, as well as serve the purposes set out in Recommendation 4. Appropriations of \$1.5 billion should be made to the fund over a reasonable period to be determined by Congress. This fund should be used, first, to provide a one-time per capita compensatory payment of \$20,000 to each of the approximately 60,000 surviving persons excluded from their places of residence pursuant to Executive Order 9066. The burden should be on the government to locate survivors, without requiring any application for payment, and payments should be made to the oldest survivors first. After per capita payments, the remainder of the fund should be used for the public educational purposes discussed in Recommendation 4 as well as for the general welfare of the Japanese American community. This should be accomplished by grants for purposes such as aid to the elderly and scholarships for education, weighing, where appropriate, the effect of the exclusion and detention on the descendants of those who were detained. Individual payments in compensation for loss or damage should not be made.

The fund should be administered by a Board, the majority of whose members are Americans of Japanese descent appointed by the President and confirmed by the Senate. The compensation of members of the Board should be limited to their expenses and per diem payments at accepted government rates.

The bill under consideration by this Subcommittee, H. R. 4110, provides for the acceptance and implementation of the findings and recommendations of the Commission on Wartime Relocation and Internment of Civilians.

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Although the Majority Leader, the Majority Whip, the Chairman of the Democratic Caucus, and the Chairman and the ranking Minority Member of this Judiciary Committee are among the lead sponsors of this remedial legislation, it is my understanding that Congressman Norman Mineta and his effective staff are responsible for the draft of this highly complicated and technical bill.

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Since the Congressman himself is one of the two House members who were interned, it is understandable that he would be the principal draftsman of this measure which reflects the sensitivities and the aspirations of most of the evacuees. In my mind, only one who has personally experienced the agonies of those actions could have so carefully and so conscientiously crafted the bill to carry out the reasoned recommendations of the Commission.

The only other member to undergo the evacuation and its subsequent tragedies is Congressman Robert Matsui, an infant who I understand sustained an ear injury that afflicts him even today because of the lack of certain medical facilities in the primitive camp in which he and his family were imprisoned.

That more than a hundred members of the House of Representatives have joined thus far in co-sponsoring this bill indicates general support for this measure. Though it is relatively late in this congressional session, it is my hope that this Congress will approve this long overdue "act of national apology" and that the President will sign this nonpartisan and what should be a noncontroversial bill into law before this congressional and presidential election year is over. We would thus demonstrate for all the world to know that America continues to believe in the redemptive capabilities of our democracy and that the United States practices its beliefs in human rights even as we demand it of other governments and peoples.

#### Proposed Amendments

As the national Nisei veterans organization, we propose that the following amendments to H.R. 4110 be favorably considered:

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I. Add to the term "eligible individual" in Section 201, Title II, (2) (C) was a member of the Armed Services on or before December 7, 1941, and was not "discharged for the convenience of the government" after that date, other provisions notwithstanding.

According to the Selective Service System Report for 1953, Special Groups, Special Monograph No. 10, Volume 1 Text, 3,188 citizens of Japanese ancestry were inducted in the period from November 1, 1940 to November 1, 1941. Following the outbreak of war, approximately one-half that number were discharged "for the convenience of the government". The remaining men, at the discretion of their field commanders, were allowed to remain in the Army but practically all were transferred to non-combat units, such as truck drivers, mechanics, supply outfits, logistical support organizations, medical corps, and even to such menial tasks as "permanent KP", latrine orderlies, and daily "policing" camp and various other areas. One such Army veteran remembers that he was ordered to pick up cigarette butts day after day and to remain in a crouching position at all times so that he could not look into the officers' quarters.

At Fort Riley, Kansas, when the President of the United States visited that camp, all of the Nisei GIs were herded into the motor pool and watched over by MPs carrying rifles at the ready. Most of these men were later volunteers for the 442nd.

At several other Army camps, Japanese American soldiers were humiliated in similar manner when their Commander-In-Chief visited them.

Then, there were a number of individuals like Sergeant Ben Kuroki, who flew 50 missions as an Air Force gunner in both the European and Pacific Theaters, earned two Distinguished Flying Crosses, and other medals, but when

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he got back to the airbase he dared not leave his tent lest some trigger-happy sentry shoot him for a spy. Even though it was against regulations, some Japanese Americans were accepted and served with honor in the Air Force, Navy, Marines, and Coast Guard, much as Ben Kuroki, of Nebraska, did.

There are many stories about Nisei soldiers who returned to the Western Defense Command to see their parents prior to being sent overseas into combat. Though wearing the same uniform as their MP escorts, when they entered the concentration camps where their families were imprisoned, they were subject to a body search by armed MPs in the identical uniform they were wearing.

Then, there were a few Japanese Americans who could read, write, and speak Japanese well enough to become the first Nisei combat intelligence servicemen in training before the attack on Pearl Harbor. Subsequently, many were sent out as combat intelligence and performed so well under fire against the Japanese enemy that they were considered one of America's secret weapons in the Pacific.

Finally, there are the heroes of the 100th Infantry Battalion who were discharged after Pearl Harbor from their Hawaiian National Guard Regiments, only to be recalled to active duty with probably what they made the most famed infantry battalion of all time, which later became the 100th Battalion of the 442nd Regimental Combat Team.

To my mind, no distinction should be made between these Nisei veterans and those of us who served after December 7, 1941. All should be "eligible individuals" as a matter of equity and fairness. Perhaps these persons are covered under the language of the legislation, but this amendment is now being proposed to make certain that they are.

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II. Section 205 (a) 1 should be amended to make clear that neither federal, state, or any other tax may be levied against this token restitution payment of \$20,000.

This proposed amendment is required in order to avoid repetition of our experience with the 1948 Japanese American Evacuation Claims Act when the Internal Revenue Service attempted to collect taxes on those paltry, nominal payments. Only threatened congressional action prevented that miscarriage of justice.

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III. Section 205, 2 (b) should be so reworded that the Attorney General shall first make payments to eligible individuals who are, or soon will be, living in retirement and/or nursing homes, or other necessary medical facility, who lack adequate funds of their own to live out their lives in dignity, decently, and humanely, without regard to any limitation as to the amount they may receive, and then "in order of date of birth (with the oldest receiving full payment first), until all eligible individuals have received payments in full."

The compelling reasons for this amendment are self-evident in corrective legislation of this type, so we will not comment further except to note that the consequences of their wartime incarceration and the vicissitudes thereafter may have reduced their capabilities to survive in dignity and adequacy. After proud and useful lives, they should not now be forced to accept charity. Moreover, there should be no limitations on the amounts they may receive in total. No doubt in some cases the payments may exceed the maximum token \$20,000 allocated individuals.

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IV. As an organization whose principal function may be an "educational" one, we are especially interested in Section 206 and its Civil Liberties Public Education Fund. We would urge that the Board of Directors of the Fund make its first disbursements to provide that the programs identified below be appropriately funded:

(A) To establish and maintain in the Smithsonian Institution a permanent exhibit dedicated to the activation and the exploits of Japanese American volunteers in the 100th Infantry, the 442nd Regimental Combat Team, and the Military Intelligence Service.

An exhibit of this kind in the National Museum could be one of the most inspirational displays of American democracy, how in periods of hate and hysteria abuses of constitutional rights and privileges may occur but that, with men of courage, faith, and vision who are willing to fight to earn and retain these truths and virtues, there is the power within our democracy to correct and extend those qualities.

In 1942, thousands of young Japanese Americans, along with their families, were placed in American-style concentration camps, behind barbed wire fences and armed military police, suspect by their own government as to their loyalty. These young men, however, saw beyond the barbed wire fences and armed guards of their prison camps and visualized the kind of country that we had to have if all men were to be free. So, thousands of them volunteered not just for military service but for combat duty against the common enemies. Many were killed in action and many more were wounded as they proved their right to enjoy American citizenship. And, some ten years later, they had not only earned greater opportunities for themselves and their posterity than they had ever before dreamed possible but had proved anew that democracy can and does correct its mistakes and errors.



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That, in a nutshell is the kind of "Go For Broke" exhibit we would like to see developed and placed permanently in the National Museum for millions of other Americans to see and be inspired anew in their faith in their government.

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(B) To build an appropriate memorial monument on the Avenue of Heroes leading to Arlington National Cemetery so all Americans may see Japanese American heroes of World War II "Go For Broke" against the enemies of America in order that what happened to them may not happen again to any individual or minority group here in the United States.

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(C) To create a permanent depository for the records, documents, artifacts, memorabilia, pictures, etc., of the men of the 100th, 442nd, and MIS so other generations of Americans can come to study the spirit and the motivations of these gallant young Americans of Japanese origin. Oral histories should be taped, and popular books and documentaries should be written about these young Americans. Portable exhibits should be produced and shown around the country at special events, libraries, schools, etc. A central archives, as it were, should be constructed and maintained to celebrate the achievements of these young Americans who, in spite of prejudice and discrimination unprecedented in our history, demonstrated such faith and vision that no other American individual or ethnic minority will ever again be tried summarily and arbitrarily, and imprisoned simply because of the accident of birth, or religion, or belief, or advocacy.

These museum exhibits, the heroic monument, and the depository should be maintained in perpetuity in order that Americans still unborn may be cheered

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by these demonstrations of democracy at its worst and at its best. Accordingly, if currently provided funds are not sufficient, this Congress should authorize future Congresses to appropriate the necessary monies.

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Perhaps we are prejudiced as to what we and our buddies who couldn't come back with us after World War II accomplished to make ourselves better Americans, and our country a greater nation and world leader for freedom, justice, and peace for all mankind. But we are certain that ours is an experience unique in United States history and could be an heart-warming inspiration to other Americans, even in other times, to remember that what happened to us shall not happen to any one or group, again.

It is in this "Go For Broke" spirit for our beloved nation that we propose this "educational program" as the Number One priority for the Civil Liberties Education Fund of the Civil Liberties Act of 1983, more specifically identified as H. R. 4110.

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One hundred years ago this summer, in a nearby town called Gettysburg in the Commonwealth of Pennsylvania, one of the greatest battles in the history of mankind took place. Later that fall, President Abraham Lincoln gave an eloquent and immortal charge to the nation that is as valid today as it was on November 19, 1883:

"It is for us, the living, rather, to be here dedicated to the great task remaining before us--that from these honored dead we take increased devotion to the cause for which they gave their last full measure of devotion; that we here highly resolve that these dead shall not have died in vain; that this nation, under God, shall have a new birth of freedom; and that government

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of the people, by the people, and for the people, shall not perish from the earth."

It is for this purpose and in this faith that we who survived the indignities and humiliation of incarceration by our own government and the shot and shell of the fascist enemies in Europe and the Pacific come to you today, Mr. Chairman, to ask that our belief in America be vindicated, and the pledge and promise of President Truman 38 years ago right here in Washington come true: "We have fought the enemy, and prejudice--and we have won!"