



National Council for Japanese American Redress

Volume X, Number 2

February 1988

Dear Friends,

The new year has brought to us *ronin* 60 and 61: Midori Shimanouchi Lederer of New York and Tom and Terrie Taketa of San Jose. The year also brings the government's response to our appeal in the Federal Circuit.

We probably violate fund-raising's established rules. We abstained from capitalizing on the *gemutlichkeit* of the Christmas season, yet received a surge of contributions. Asking people for \$1,000 in order to become *ronin* supporters seemed almost quixotic. For years, I wondered if we'd ever reach our 47th *ronin*, and now we have our 61st. I like to think these contributions flow from a recognition that we comprise an aristocracy of freedom, rather than wealth or privilege, that our activities are worthy of our resources and selves. Whether this or *gemutlichkeit* or whatever, our deepest thanks to all who keep the movement moving.

Our reason for existence is still with us. On January 11, 1988, the government replied, continuing, now for 46 years, with its euphemisms of "evacuation," "relocation," and "resettlement." The Department of Justice attorneys' brief presents a historical background with an objective tone that uses expressions such as "military security," "protection against espionage and sabotage," "military areas," "for their relocation, maintenance, and supervision," and "the safe conduct of the war requires the fullest possible protection against either espionage or sabotage to national defense materials, national defense premises, and national defense utilities"—all quotes from official orders and acts.

It describes the 1948 Claims Act, the 1976 Presidential proclamation by Gerald Ford, and the Commission on Wartime Relocation and Internment of Civilians. But it contains not a hint of official wrongdoing, not a word of the completely racial standard applied by officials in their uprooting of entire communities on a few days' notice, not a sentence on their total disregard for the civil and constitutional rights of the individuals who were curfewed, excluded, and detained in remote prison camps. It is history with an eerie, Orwellian feel; perhaps not as total as the removal of exiled national groups in the Soviet Union from their homelands and from Soviet history and encyclopedia, but nevertheless unnerving as a pronouncement from the Department of Justice of the leader of the free world.

Without so much as a wink, the government states that the question of justifying "the evacuation and internment" "was definitely answered by President Ford in 1976," when he proclaimed "the evacuation" to be one of our "national mistakes." (Actually Ford did not use "evacuation." He more precisely used, "removed from their homes, detained in special camps, and eventually relocated.") Ah, now, wouldn't it be nice if we could avoid paying the fine for a traffic violation by saying, "Sorry, Judge, my mistake?"

The attorneys for the government argue, of course, against the tolling (postponing the commencement) of the six-year statute of limitations. As you will recall, we won a major victory two years ago when the Appeals Court of the District of Columbia Circuit tolled the statute to July 1980.

An Issue for All Americans

Continued Dear Friends

The government appealed to the Supreme Court (technically petitioned for certiorari) on two grounds: jurisdictional (that we were heard in the wrong Circuit) and tolling. On June 1, 1987, the Court ruled that we had been heard by the wrong Circuit, remanded (ordered) us to be heard in the Federal Circuit, and vacated our wonderful victory. I cannot comment intelligently on much of their argument. But they maul history.

They try to separate the curfew and exclusion issues in Hirabayashi and Korematsu from the issue of internment. But exclusion and internment are one. On June 27, 1942, the Western Defense Command issued Public Proclamation No. 8 designating the six detention camps located within the WDC's jurisdiction as "War Relocation Project Areas," another devilishly crafted euphemism for a military area of exclusion. On August 8, 1942, the War Department issued proclamation WD-1 declaring the remaining four camps beyond WDC jurisdiction in Arkansas, Colorado, and Wyoming to be War Relocation Project Areas. Earlier, on March 21, 1942, Congress enacted a law providing penalties for violators of an exclusion order, making it a crime for excluded persons (us) to "enter, remain in, leave, or commit any act in any military area." (Notice the latitude of "enter, remain in, or leave." The exclusion order kept us out or kept us in.) These declarations of military areas for the ten camps provided the legal basis for detention. Of course, there was never any military necessity for these military areas. Were we going to sabotage ourselves? We didn't have to spy on our neighbors; we could hear them through the walls.

The government tries another verbal sleight-of-hand to minimize the judgments rendered in the U.S. District Court and Court of Appeals for the Ninth Circuit in the *coram nobis* case of Gordon Hirabayashi. Both courts ruled that the destroyed first edition of Lt. General DeWitt's Final Report materially affected the wartime Supreme Court's decisions in Hirabayashi and Korematsu. The government implies that what happened to the first edition was merely editing. The destroyed first edition had been printed, hardbound, and distributed. All copies, except one, were retrieved and destroyed. It argues that the reason for this "editing" was that DeWitt's reasons for issuing curfew and exclusion orders were not those of the United States. But Executive Order No. 9066 explicitly authorizes the delegation of authority to Military Commanders. DeWitt operated under such delegation. His reasons for his orders become the reasons and orders of the United States. The reason for the "editing" was that DeWitt had let the cat out of the bag: his, hence the government's, reasons were racist.

Then the government had the temerity to state that when, in April 1943, the War Department reviewed and had changed the Final Report, "the War (sic) Department was already taking the first steps to establish a program to end the mass exclusion of Japanese-Americans." Mass exclusion, friends, was rescinded 21 months later in January 1945. In April 1943, the War Department had determined that military necessity, such as it was, had ceased to exist on the West Coast. Having ceased, mass exclusion and detention should have been rescinded then, and we should have been allowed to return to our homes. Also at this time, Colonel Bendetsen stated that no military necessity ever existed for the declarations of War Relocation Project Areas. Having never existed, we should never have been detained. Instead of a program to end mass exclusion, the War Department was taking the first steps towards a cover-up.

The government has argued poorly. I wish we had a more worthy adversary. What worries me is that they think they can win with such shoddy work.

O M I S S I O N

A portion from the lead item in the January Dear Friend letter was left out. What was omitted in Owen v. City of Independence have been added (below).

A damages remedy against the offending party is a vital component of any scheme for vindicating cherished constitutional guarantees, and the importance of assuring its efficacy is only *accentuated when the wrongdoer is the institution that has been established to protect the very rights it has transgressed.*

Owen v. City of Independence, 445 U.S.622, 651 (1980)

Continued Dear Friends

There are other straws in the wind. On August 6, 1987, H.R.3152 was introduced in the U.S. Congress "to make certain improvements with respect to the Federal judiciary." Among these is a section that may overturn the Supreme Court decision in *U.S. v. Hohri* that remanded us to the Federal Circuit. What this section does is clarify that which was ambiguous and which the Supreme Court decided to clarify. While the Court ruled that our appeal, one that contained a mixture of federal and regional issues, should go to the regional circuit. If enacted before the Federal Circuit makes a decision in our appeal, it may vacate the remand and place us back to square three, where we were after the decision of the District of Columbia Circuit in 1986.

Finally, the New York Times reported that the word is that Judge Bork's successor in the D.C. Circuit may be Charles Fried, the U.S. Solicitor General. So, we may have a new adversary when we return to the Supreme Court. If so, let's hope he or she will not be so adversarial. After all, we are on the same side, aren't we?

Peace,

William Hohri

P.S. I expect to be in Denver, March 13-15, Marriott City Center, for the First Amendment Congress, and Pullman, Washington, March 24-27, for the Asian Studies Conference at Washington State University. And the galley proof of my book, Repairing America: An Account of the Movement for Japanese-American Redress, are ready for final review and indexing. We're shooting for publication late March-early April.

NOTES

The contribution is to honor Hannah and Dwight Holmes, who keep the faith so steadfastly: and in memory of Yoki Nakamura; and in memory of Yaso Ueno, Harry's wife.

Joyce Okinaka
Walnut, California

With much appreciation for your untiring and commendable struggle.

Irene Tsutsui Hoffman
San Diego, California

I hope the "gambare" cry will turn to "appare" soon.

From far-off Maui, Aloha!

P.S. Donation is from
George Seriguchi.
He was in Poston.

Nobuko Seriguchi
Pukalani, Hawaii

Season's greetings!
Thanks for carrying on the fight.
God bless you all.

Mamoru and Susan Kanda
South Pasadena, CA

Can't help the Redress Legal Fund much but we hope this helps a little bit.

Kazuo and May Fujii
Troutdale, Oregon

The Japanese people are following your activities, too. Keep up the good work!

Donna Tamaki
Kyoto, Japan

Please permit us to make a very small token contribution towards your Redress Legal Fund.

Thank you for sharing the newsletter with us.

P.S. Attended a special viewing of Loni Ding's "The Color of Honor." We were thoroughly moved by the documentary.

Masami and June Ohara
Honolulu, Hawaii

CONTRIBUTORS



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■ If you do not wish to have your name listed, please indicate when you remit.

NCJAR newsletter
editor: Eddie Sato
Doris Sato

They Call Me Moses: An American Saga
Mike Masaoka with Bill Hosokawa
William Morrow and Company, Inc. 1987
383 pages, \$18.95

"Moses" Masaoka stumbles from his opening use of the story of God's barring the entry of Moses into the Promised Land by making this singular prohibition against Moses into a general one against a group. The Children of Israel did enter the Promised Land. Moses, because he sinned against God, did not. Nor was Moses the prophet Masaoka says he was. Nor was he the speech maker or public relations expert that Masaoka became.

Moses was a liberator and a law giver. He was slow and hesitating in his speech, so he convinced God into using his brother Aaron as his mouthpiece. He used, of course, extreme confrontational tactics by scaring the living daylights out of the Pharaoh with turning water into blood, invasions of frogs, maggots, flies, and locusts, and finally killing the first-born throughout the land. He did not urge his people to cooperate with the Pharaoh.

The rest of this book fails in its attempt to project Mike Masaoka and the Japanese American Citizens League into "An American Saga," but it does provide insights into one aspect of the Japanese-American character particularly embodied in the Nisei.

Among the principles Masaoka affirms are these:

- 1) "The greatest good for the greatest number over the longest period of time;" (p. 157)
- 2) "Do not judge long-past decisions by contemporary values;" (p. 100)
- 3) "My disagreement with Yasui over his challenge of the curfew order was less over policy than timing. I had been convinced the challenge must come later." (p. 100)
- 4) "Cooperation [with mass exclusion and detention] would be our contribution to the war effort and proof of the Americanism of the Japanese American;" (p. 156)
- 5) "Japanese Americans, and other minorities, today would not be enjoying unrestricted citizenship rights without the Nisei record of unswerving loyalty;" and (p. 179)
- 6) "If identical circumstances [to 1942] should arise tomorrow—and I pray that they never arise—chances are that I would urge the same acceptance of patriotic duty." (p. 158)

This account of his life illuminates these by example. He describes his childhood and early years in Utah, his role with the JACL during the critical wartime years, the exploits of the 442nd Regimental Combat Team, the legislative victories supported by the JACL, and his encounters with prestige and power to validate them.

In this last capacity, he may follow after Moses. Like Moses, who had the chutzpah to negotiate with the Almighty and to share in numerous conversations with the Nameless One, Masaoka drops name after name of senator, congressman, judge, ambassador, general, admiral, capitalist, attorney, and others. Perhaps, like Moses, he wants to be not merely credible but compelling. But I think his excesses in self-promotion may prevent all but the gullible from being compelled; most will ponder this account as revelation into the contradictions in the Nisei character.

The requirement that an oppressed group earn the respect of the oppressor has a familiar ring to me. While enrolled at the University of Chicago, I was counseled by a well-meaning white man to excel. I was relieved to get Cs, delighted with Bs, and unfamiliar with As. Oppression I have since learned, resides in the oppressor. One works at alleviating oppression at its source by applying fact and logic to theories, changing laws, instituting court challenges, and rejecting the oppressor's terms of acceptance and formulating and presenting one's own demands for equity and justice. "The greatest good for the greatest number" is a principle any majority

Continued They Call Me Moses

would love to inflict on minorities. Cooperation with a racially motivated and massive violation of a minority's constitutional rights must never be called Americanism. I can think of nothing more anti-American than co-operating with the flagrant abuse of power by our government.

As a means of avoiding this kind of analysis, Masaoka would have us suspend judgment of his wartime decisions with current values. Aside from the plain question of how one is to escape from using current values, many of the values we hold today were held in the past. The draft resisters from the detention camp at Heart Mountain, Wyoming based their protest on the U.S. Constitution. They were not opposed to Selective Service. They simply demanded the restoration of their constitutional rights before they would accept their duty in the military. In 1942, as if anticipating these resisters, Elmer Davis, head of the Office of War Information, wrote in his letter to President Roosevelt proposing an all-volunteer military unit of Nisei.

It would hardly be fair to evacuate people and then impose normal draft procedures, but voluntary enlistment would help a lot.

The values of the resisters were those of their contemporaries and our nation's founders.

Masaoka is an intelligent person, who is married to the past. Were he free to think, and were an adversary to argue for the poor timing of Yasui, Hirabayashi, and Korematsu, I am sure he would be quick to rebut with the obvious point that one cannot challenge an order except when it is in place. One cannot challenge a curfew order until the order has been made and before it is rescinded. The same for exclusion. There has never been any question in the courts that these challenges were timely. So the timing was correct. Without these challenges, there would be no contemporary challenge to the wartime decisions of the Supreme Court, no opportunity to have these decisions reconsidered.

This account does provide insight into one man who has had marked effect on the lives of Japanese-Americans. It provides reasons why many Nisei feel that deference rather than assertiveness is the way to succeed in American society. Certainly any dominant group prefers deference to assertiveness from its subordinates. But the reader of Moses must be wary of certain terms that are used. "Justice," for example, takes a strange twist when Masaoka devises JUSTIS as the acronym for a lobby of Japanese textile interests (Japan United States Textile Information Service). Throughout the book, one sees Masaoka as both the quintessential Nisei and the anti-Nisei. His principle of unquestioning loyalty to government is part of the Nisei heritage. So is the accommodationist stance with the white majority. But his self-promotion is anti-Nisei. One wonders if it is not a crutch for some psychic disability. One senses that Masaoka knows all the right words, but is reluctant to be ordinary and human. He seems bent on distancing himself from his Nisei peers with his incessant name-dropping.

Unfortunately, Masaoka also writes history by describing his version of events, and his history is flawed. One error leads to another. He fails to acknowledge the informant role of leaders of the JAACL in providing the FBI with names of persons whom these leaders felt had suspect loyalty. He states, "we were never informers in the sense that we ran to the FBI with information in hopes of currying favor. What he fails to state is what they did when confronted by the FBI for concrete demonstrations of their loyalty by providing names of suspicious persons. When so confronted, leaders of the JAACL did name names. He then implies that the Manzanar uprising was caused by the decision of the JAACL to support the reinstatement of Selective Service. The uprising was caused by an attack on a person suspected of informant activity and by the unrestrained use of deadly force by the military police.

He diminishes the heroic and historic role of the draft resisters by arguing that their resistance had no effect on subsequent legislation, as though the modest legislative victories he supported were of more enduring significance than the

FRIDAY, FEBRUARY 19, 1988 7:30 pm

HEIWA TERRACE
920 West Lawrence
Chicago IL 60640

NATIONAL COUNCIL FOR JAPANESE AMERICAN REDRESS



P R E S E N T S

EXECUTIVE ORDER 9066

REMEMBERED

Guest speaker:

SHIRLEY CASTELNUOVO

Professor of Political Science
Northeastern Illinois UniversityContinued They Call Me Moses

willingness of these men to go to prison to preserve their constitutional rights. It was their imprisonment for constitutional principle, not the loyalty of the JACL and Masaoka to their government, that anticipated the imprisonments of the 1960s that led the way to sweeping victories in civil rights for blacks and other minorities. Loyalty to the Constitution, not the government, undergirds our freedom. Archibald Cox, in The Court and the Constitution, writes: "The roots of constitutionalism lie in the hearts of the people."

Masaoka's account of the repeal of Title II and the redress movement is simply inept. He omits mention of key players and organizations in both events. The key players in the repeal were Raymond Okamura and Edison Uno. Key organizations were the Asian American Political Alliance, and the National Ad Hoc Committee for Repeal of the Emergency Detention Act. The redress movement has involved many persons and groups besides the national JACL. In the 1970s, the Seattle Evacuation Redress Committee of the Seattle Chapter of the JACL researched and formulated the demand for redress and pressed the national JACL to adopt redress as its program.

The National Council for Japanese American Redress was formed in 1979 in opposition to the JACL's decision to switch from seeking redress legislation to establishing a congressional study commission. NCJAR subsequently went on to initiate a class action lawsuit on behalf of the entire class of Japanese-American victims. The case has been in the Supreme Court, is now in the Federal Circuit Court of Appeals, and will probably return to the Supreme Court. The National Coalition for Redress/Reparations was formed in 1980 and has played a significant role in raising the issues and lobbying for legislative redress, I am at a loss to understand why he omits mention of Congressman Mike Lowry's vigorous support of redress legislation and names only five of the nine members of the Commission on Wartime Relocation and Internment of Civilians.

Much of what Masaoka has to say are no more than one man's opinion, interesting to him perhaps but hardly authoritative, despite his unrelenting name-dropping. For good and for ill, the contributions that Masaoka has made through his life are substantial. But I get the sense that he is a man whose ideas are frozen in time. When our Constitution was being threatened, he made the decision to submerge the threat with an appeal to patriotism. Given the failure of most liberal and civil rights groups to see the threat and the enormous hostility towards Japanese as a perceived racial group, that decision is understandable. He now claims, even with the benefit of hindsight, that were history to repeat itself, he would still make the same decision. And that is saddening.

WILLIAM HOHRI

In light of this month's commemoration of the implementation of Executive Order 9066 forty-six years ago on February 19, 1942, the following comments (below) of Rev. Joseph M. Kitagawa in his book review printed in The Christian CENTURY is significant. e.s.

The books mentioned (listed on page 9) are Keeper of Concentration Camps by Richard Drinnon and Beyond Words by Deborah Gesensway and Mindy Roseman.

Pretext of military necessity?



Richard Drinnon's book is a carefully documented critique of the policies of Dillon Myer, who was in charge of concentration camps (euphemistically called "relocation centers") for Japanese-Americans and their parents, which were operated by the War Relocation Authority from 1942 to 1946, and who then served as commissioner of the Bureau of Indian Affairs.

The second book (Beyond Words) is a collection of paintings, eloquent portrayals of tragic life in W.R.A. camps by inmate-artists.

Particularly in the wake of the Iran-contra affair, these books are timely reminders that there have been various attempts on the part of the United States government to bypass the Constitution. They remind us that majority opinion is far from a guarantee of basic human rights. Given this tragic history, the Constitution needs to be respected as a "majority of one."

It is hard to believe that Native Americans were originally ineligible for naturalization because they were not "white persons." Eventually they were made citizens by special statute, not by naturalization as provided for by the Constitution.

To further complicate the matter, Myer—relying on his previous experience with Japanese-Americans—initiated the misguided B.I.A. program of "relocation," jeopardizing the Native Americans' tribal rights and degrading their identities.

Fortunately, the Freedom of Information Act enables us to dig up facts about the W.R.A. and the B.I.A. which would otherwise remain veiled by carefully orchestrated official deception. We should be aware that government officials and influential citizens are continually tempted to violate constitutional requirements under the pretext of military necessity.

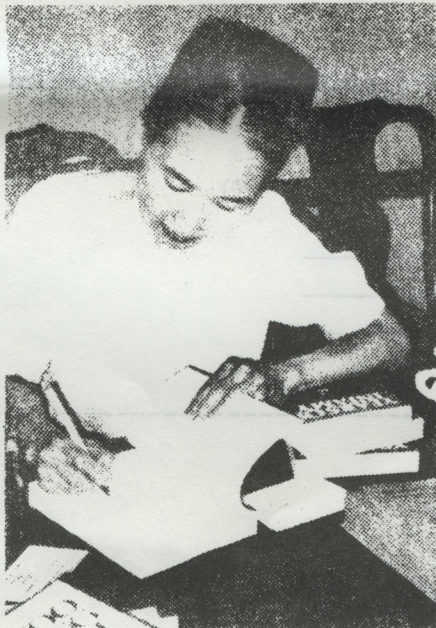
Joseph M. Kitagawa

■ NOTE:

Kitagawa is Professor Emeritus from the University of Chicago's Divinity School. His brother Daisuke (1910-1970) was the World Council of Church's Secretary of Racial and Ethnic Relations.

Available through NCJR

- BEYOND WORDS: (hardcover)
Images from America's
Concentration Camps
by Deborah Gesensway
Mindy Roseman \$29.95
Postage and handling 2.00
- KEEPER OF CONCENTRATION CAMPS:
Dillon S. Myer and (hardcover)
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by Richard Drinnon \$24.95
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Michi Weglyn

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The Untold Story of
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by Michi Weglyn \$10.95
Postage and handling 1.50

- TOO LONG BEEN SILENT:
Japanese Americans Speak Out
by Roger W. Axford \$9.95
Postage and handling 1.50
- OBASAN
A novel of the Nisei
in wartime Canada
by Joy Kogawa \$9.95
- JUSTICE AT WAR:
The Story of Japanese American
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by Peter Irons \$8.95
Postage and handling 1.50
- NO-NO BOY
by John Okada \$8.95
Postage and handling 1.50
- CITIZEN 13660
by Miné Okubo
(with autographed sketch) \$8.95
Postage and handling 1.50
- NISEI DAUGHTER
By Monica Sone \$8.95
Postage and handling 1.50
- COMING OF AGE OF THE NISEI
Amerasia Journal
(Volume 13, Number 2) \$7.00
Postage and handling 1.50
- GAMBARE!
(Internment of Hawaii's Japanese)
by Patsy Sumie Saiki \$7.00
Postage and handling 1.50
- POETS BEHIND BARBED WIRE
A compilation of tanka poems
Edited by Jiro Nakano
Kay Nakano \$6.00
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- CAMP NOTES AND OTHER POEMS
by Mitsuye Yamada \$4.50
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by Arthur A. Hansen \$3.00
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