



National Council for Japanese American Redress

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May 1988

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NEWS RELEASE:

William Hohri

Appeals Court denies access to trial

On May 11, the Federal Circuit Appeals Court voted two-one to affirm the 1984 dismissal of the class action lawsuit of 125,000 Japanese-Americans against the U.S. for its World War II violation of their civil and constitutional rights.

Circuit Judges Rich and Nies expressed their majority opinion without argument in a single-page, *per curiam* (by the court without authorship). Senior Circuit Judge Baldwin issued an 18-page dissent that argued for tolling (postponing) the statute of limitations until the Commission on Wartime Relocation and Internment of Civilians, created in 1980 by Congress, issued its report in 1983. Baldwin states that the government's "actions during the War clearly constituted fraudulent concealment," that this occurred "during the prosecution of Hirabayashi and Korematsu before the Supreme Court," and that the Court's decisions "barred civil as well as criminal actions" against the government.

This decision while disappointing was not unexpected. We were ordered to the Federal Circuit on a narrow technical issue. That issue has been resolved. We will now return to the Supreme Court so that the real issues in this case can be dealt with.

This ruling, based on the expiration of the statute of limitations, is part of a lengthy procedural battle waged by the Department of Justice to prevent the case from being argued in trial court. The U.S. District Court's dismissal was first appealed for the District of Columbia Appeals Court. In January 1986, this court reversed the dismissal and remanded the case to trial. The government appealed to the Supreme Court and there argued that the appeal should have been heard in the Federal Circuit. In June 1987, the Supreme Court remanded the appeal to the Federal Circuit.

An Issue for All Americans

Dear Friends,

Several of you offered your congratulations to me and may have been puzzled by my hesitant recognition. I wasn't quite sure what for. Then you explained it was for the 69-27 passage by the U.S. Senate of H.R.442, the redress bill. (It was H.R.442; the Senate replaced the contents of H.R.442 with S.1009 and voted H.R.442. The idea, I think, was to have the House then vote on H.R.442 as amended by the Senate, avoid a conference committee, and then go directly to the President. But this did not happen. H.R.442 will go to a conference committee comprised of selected members of both houses; the committee will produce a common bill; then this common bill will go before both houses for a vote. If passed, as expected, it then goes to the President for his approval or veto.) Even upon my realization, you may have been puzzled by my sobriety in pointing to the need for the President's approval and my guess that he would probably veto.

It's not quite so simple as victory or defeat.

I still believe the President will veto redress because his administration, as represented by the Department of Justice, the Office of Management and Budget, and his Director of Correspondence, has been opposed to redress in the courts in our lawsuit, in testimony before House and Senate committees, and in letters to persons who have written to the President to urge enactment of H.R.442. But I also believe that the President is unpredictable and is capable of resisting advice. One never knows about the confluence or disarray of stars and planets.

If he does veto and his veto is not overridden, then the lawsuit may become the only game in town. Of course, the proponents of legislative redress will have the option of trying again in the 101st Congress, provided, of course, that the 101st Congress is willing to give it another go. The lawsuit's tremendous victory in the D.C. Circuit Court of Appeals was vacated by the Supreme Court, so the lawsuit also faces much uncertainty. We don't know how the Federal Circuit will rule. We don't know whether or how the Supreme Court will rule.

If the President signs the bill or his veto is overridden, we will have real cause for jubilation. Even so, you may find me sober. Part of my sobriety will be ego. I am not ego-less. Legislative redress has belonged to others. It is their time for glory. Another sobering reality is that enacted redress will serve as an out-of-court settlement of our lawsuit and our lawsuit will thereby tend to become moot. Persons who accept payments under the Act will remove themselves from our class action. And we will encourage most persons to accept. Judges and justices may deem that the lawsuit has been settled and should not continue.

Timing could be everything. Our appeal has been heard by a three-judge panel of the Federal Circuit. Early June is the earliest date for a decision and probable opinion. Will the Congress and President have resolved the issue before the panel makes its decision? Has the panel made its decision and now writes its opinion(s)? [NOTE: Two-one panel decision was made as stated on page one.] The Senate report on S.1009 now H.R.442, does contain this statement in its extinguishment of claims explanation:

Nothing in this section is intended to preclude the pending class action, *Hohri v. United States*, from proceeding to final judgment.

Continued on page 3

The final reason for sobriety is that our lawsuit must continue. With a legislative victory, our class will be diminished. Members of the class will accept payment and opt out. Many of our non-class supporters may shift their concern to other issues. But a hard core of us will persist. Only the Supreme Court can reconsider *Hirabayashi* and *Korematsu*. A tremendous push in this direction has been achieved in the *coram nobis* cases, especially in the opinion in *Hirabayashi* by the Ninth Circuit Court of Appeals.

And only the courts can deal with the government's culpability in its massive abrogation of civil and constitutional rights. I think the proposed apology is appropriate. The proposed payments are acts of good faith. But in its wartime judgments, the courts breached constitutional protections and guarantees. Of course, we've all heard the arguments about the panic and fear caused by Japan's devastating attack on Pearl Harbor, undoubtedly heightened by white America's belief in their vast superiority over the non-white races. Our Pacific fleet was seriously crippled. The Japanese outblitzed the Germans in their victories in Guam, Wake Island, Singapore, the Dutch East Indies (Indonesia), and the Philippines. But it is precisely under such extremities that we must be able to rely on the courts and the protections of the Constitution. The repair and restoration of these protections is vital.

We need only recall the realpolitik of John J. McCloy, adviser to every President from Roosevelt to Reagan, who pointed out to the members of the Commission on Wartime Relocation and Internment of Civilians that were Cuba to attack Florida, we might have to intern Cuban-Americans.

I write this a few weeks before you read it, before the final outcome of the legislative effort. Assessing the future is difficult. But one future has emerged: Repairing America is reality! I got the first copy into my sweaty palms on May 5, Japan's Children's Day, on the seventh anniversary of our retaining the firm of Landis, Cohen, Rauh and Zelenko to initiate our class action lawsuit. Now that's a confluence!

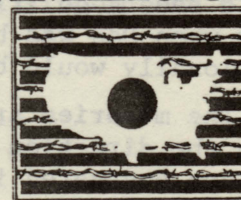
We're having the first in a series of book parties on June 4, 3-5 p.m., at Heiwa Terrace, 920 West Lawrence, Chicago. It's a Saturday afternoon.

Please drop by if you're able. WBEZ-FM's Carolyn Grisko will conduct a discussion on Repairing America. You're all invited to participate. The book, I hope, is dialogue and a little enlightenment.

Peace,

William Hohri

REPAIRING AMERICA



AN ACCOUNT OF THE MOVEMENT
FOR JAPANESE-AMERICAN REDRESS

C O N T R I B U T O R S

ARIZONA: Roger W. Axford.

CALIFORNIA: Kayo Endo, Yosh Kuromiya, Meriko Mori, Phil and Yasuko Nakamura, Gary Okihiro [On behalf of Hannah Tomiko Holmes], Alice and Tiz Tsuma, Mary Acord Uyeda [In memory of Arthur and Mildred Acord], Clifford I. Uyeda.

CHICAGO: Patricia Adachi, Dorothy Kaneko, Eleanor Martin.

COLORADO: William Goro Ogo. HAWAII: Stanley E. Igawa, Tamotsu Masai, Irvin K. Sasaki, Ronald Y. Takahata.

ILLINOIS: Ed Hiestand, Woodrow C. Linn, Mr. and Mrs. M. Shiozaki.

NEW YORK: Chiye Watanabe. WASHINGTON: James R. Griffin, Yasuko Iwai Takezawa, Mrs. Thomas Tanigawa.

WASHINGTON, DC: Judith A. Dollenmayer.

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

L E T T E R

In the late 1920s Mother taught the children of immigrant families in and near San Pedro, California. Many of these were Japanese. During the '30s and '40s Dad worked in produce sales throughout the Los Angeles county. He bought directly from the Japanese farmers as much as possible, sometimes taking me along on Saturdays.

For many years Dad also drove nightly to the big wholesale produce market in Los Angeles. He made many friends among the Japanese workers. Dad would stop at home for breakfast with Mother before making his deliveries. I shall never forget one particular morning in 1942. I was home sick when he arrived looking like "death warmed over" and badly shaken up. It took several minutes for him to explain for that was the morning after the mass evacuation of the Japanese from the West Coast. He described the ghost like atmosphere in and around the wholesale market and the almost total lack of produce.

As he talked I remembered the busy streets of Los Angeles' Little Tokyo a year or so before when Dad had taken us there for my birthday and to see the Nisei Week activities. He bought for me a little Japanese girl doll and a pair of chopsticks. Then I thought of my class mate, Meiko, and how I'd never see her again and I'd miss her terribly.

After camp closed one of the first people "Naka" looked up was my Dad. They'd been good friends before and now he was back. It was a happy reunion! Later when Dad was bedridden from a stroke "Naka" came often to visit and occasionally would bring strawberries which Dad loved.

The memories are both bitter and sweet but thanks Mom and Dad for starting me in the direction you did. Later I married a young man who, with his family had been evacuated from Southern California. So this tribute should also be to the paternal grandparents of my son, Fusajira and Hide Uyeda.

Keep working—the fight for redress
is not over!
God Bless you all.

MARY ACORD UYEDA
Sylmar, California

Manzanar wilderness offers solace to internees

by
Hannah
Takagi
Holmes

Under the blue sky, the first generation of our fathers and mothers sailed on the high seas to our promised land.

Under the dark clouds of World War II, 120,000 adults and children were uprooted from their homes and forced into Manzanar and nine other concentration camps by our government.

Snow at top of the mountain provided us with cold water to wash away our sorrows, fresh water to drink, to wash our clothes and bodies, to cook our food and irrigate our camp farms. Some children played in a tiny creek. Some artists used water colors. Some sneaked through the barbed wire fence to go fishing.

We dug, planted and grew fruits and vegetables in the desert. We were able to feed 10,000 mouths daily. Some worked to make rubber from a desert shrub.

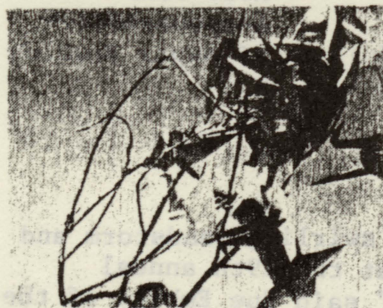
We collected both small and large pieces of driftwood and made signs, canes, vases, jewels, and many other works of art besides wooden slippers (*getas*).

We collected many various stones to build rock gardens and ponds. Dates were written on some stones for historical purposes.

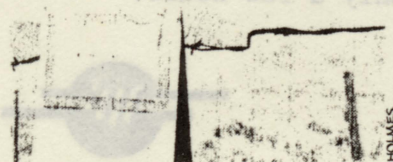
We fought off many duststorms through summer, fall, winter and spring. Flying pebbles became our loud music.

We collected tumbleweeds and decorated them like Christmas trees and made Japanese cherry blossoms out of crepe paper. They were used at our camp funeral services.

We survived together behind barbed wire in Tule Lake, Poston, Gila, Minidoka, Heart Mountain, Granada, Topaz, Rohwer, Jerome and Manzanar. And we must not forget that the Justice Department kidnapped and kept other victims in Santa Fe, Bismarck, Crystal City, Missoula, Leupp and Moab. More than half of the 120,000 have died without seeing justice done. But all of the 120,000 names still live in the U.S. National Archives.



(Left) A bird tree made by Hannah in memory of twin babies who died in Manzanar.



(Essay was read by Wilbur Sato)



HOLMES

■ PHOTO CREDITS: Dwight Holmes

19th Annual Manzanar Pilgrimage
Saturday, April 30, 1988



Tributes from Weglyn and Zelenko posted

Your tireless work
is an example to us all
and you deserve the accolades
of all Americans.
I am proud to be among
those saluting you.

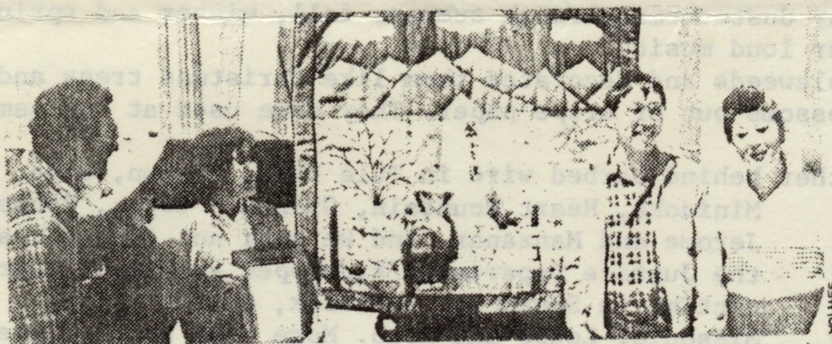
BENJAMIN L. ZELENKO

Writer-Warrior
Symbol
of Achievement through
Vigilance
Ever rising up
Against injustices
Wielding truth
To challenge power
Like a sword!

MICHI WEGLYN



Art Caplan INTERPRETER FOR HANNAH Harry Y. Ueno Hannah T. Holmes



Wilbur Sato Hannah Sue Embrey

Mike Woo Rose Ochi

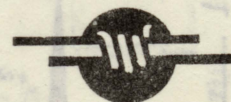
(LEFT)

Los Angeles
Councilman
Mike Woo

Rose Ochi
Representative
of Mayor Bradley

An Associated Press report stated the following: A swirling sandstorm and sad memories failed to dampen the celebratory air at the 19th annual pilgrimage. "It was very cold and windy out there," said Sue Embrey of the Manzanar Committee. "I think this pilgrimage gave people some idea of what we experienced in the camps, although it was for only a few hours."

NCJAR newsletter
editor: Eddie Sato
Doris Sato



- With the passing of S.1009 in the Senate on April 20, editorials for and against redress were printed. Appearing in the April 30 Chicago Sun-Times was the editorial (below) titled "Compensate interned Japanese-Americans."

A small sum to its own people who were wronged

The saying "better late than never" encompasses a lot of wisdom. President Reagan will soon have the chance of showing it can also encompass justice. The chance is in the form of legislation passed by Congress to have the government apologize to and compensate U.S. citizens and noncitizens of Japanese ancestry who were forced to suffer an officially sponsored calamity peculiar to their ethnic group in the United States during World War II. They were vilified, harassed and forcibly removed from their West Coast homes, farms and businesses and interned in barbed-wire camps because of the unfounded suspicion that they represented a security risk.

That the suspicion was unfounded was known to the government at the time, including J. Edgar Hoover's Federal Bureau of Investigation. Senior officials in the Justice Department strongly opposed the proposal. But it was war time, Japan was a hated enemy and hysteria prevailed over reason, over justice, over honor.

That security concerns could not have been the only or the primary consideration should be amply clear from the fact that people of German or Italian ancestry were not similarly rounded up and sent to internment camps. Their lives were not disrupted, they were not forced to sell their property at fire-sale prices, their freedom was not endangered and their honor not besmirched. Was it because, unlike the penalized group, they were white and owned no valuable farmland that their neighbors coveted?

In any case, the House and the Senate have passed bills authorizing compensation of \$20,000 per person to about 60,000 survivors of that shameful episode in our history. Incredibly, there are people who oppose the payment. Sen. Malcolm Wallop (R-Wyoming) fails to see there was anything wrong. He says the internment was "not a dishonorable act." Sen. Chic Hecht (R-Nevada) fails to see the logic. "I cannot in good conscience go back and tell survivors of Bataan, Iwo Jima and all those battles in the South Pacific and tell them we have forgotten you but we are compensating people who we moved into camps."

The White House Office of Management and Budget, with typical bureaucratic insensitivity to any concerns but its own, is recommending a presidential veto because of the budget deficit problems. We are sure there are also those who, like their soulmates during World War II, somehow, link these wronged individuals to the current villain of choice for our trade problems: Japan. This is not really that much different from the idea of Sen. Jesse Helms (R-N.C.), who wanted payments withheld until Japan compensates American families for losses suffered at Pearl Harbor.

For a country that spent billions to rebuild former enemy nations, it hardly seems unreasonable to provide a small sum to its own people who were wronged. If President Reagan should be persuaded to veto this bill, it would be unconscionable. Justice would still come, assuredly, at some later date, but by then it would have become a case of "justice delayed is justice denied." It almost is, even now, four decades after that mass miscarriage of justice.

LITERATURE available through NCJAR

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to their special BOOK PARTY

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3-5 pm

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Moderating a discussion
on William Hohri's Repairing America
will be Carolyn Grisko of WBEZ-FM's "One Flight Up."
Other participants will be Mindy Roseman,
co-author of Beyond Words
and Rev. Michael Yasutake.

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the authors.

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