

Lessons from History: Japanese Canadians and Civil Liberties in Canada

(歴史の教訓:日系カナダ人とカナダの市民的自由)

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SUMMARY IN JAPANESE: 第二次世界大戦中の日系人強制移動および収容はアメリカ・カナダ両国において市民的自由の明確な侵害であった。1988年には、アメリカおよびカナダ政府はこの事件に対しリドレス(謝罪および補償)を行なった。アメリカとカナダのリドレス運動の最大の違いは、カナダのリドレス要求がカナダの憲法および法律の改正を含んでいた点にある。本論文は日系カナダ人の戦後40年間の歴史的不正義を正すための闘いを追うものである。日系カナダ人は第二次世界大戦当時から、強制移動に抵抗し、財産の売却に抗議し、国外追放に反対する裁判を起こして、政府のいわれなき人種差別に対抗しようとした。戦後30年を経て、1977年の移民百年祭を契機にリドレスへの運動が復活した。1980年に全カナダ日系人協会が設立されて間もなく、日系カナダ人は憲法論議に参加して「権利と自由に関するカナダ憲章」の人権保障の重要性を訴えた。また、1987年には「戦時措置法」に代わる「緊急事態法」の制定に際し立法審議委員会に代表を送り、緊急時の行政の権力濫用を防げるような人権擁護の厳しい法を作ることに貢献した。どちらの場合も、過去の不正義の体験に照らして人権の法的保護の重要性を訴えたという点で、日系人はユニークな役割を果たしたと言えよう。

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Introduction: Japanese Canadians' Uprooting during W.W.II and the Legal Background for the Policy

From December 7, 1941 to March 31, 1949, Japanese Canadians suffered a massive infringement of their civil liberties and basic human rights.¹ Canadians of Japanese ancestry living within 100 miles of the Pacific coast, along with the Japanese nationals, were forcibly removed from their homes. 75% of those who were uprooted were in fact British subjects.² The majority was relocated to internment camps in the British Columbia interior, and a large number of families were sent to work on sugarbeet farms in Alberta and Manitoba.³ Those men who resisted the relocation were interned in prisoner-of-war camps in Ontario in spite of their civilian status, and in the case of the Nisei, their British nationality.⁴ This policy of removal, which is euphemistically called "the evacuation," caused Japanese Canadians a great deal of suffering by restricting their legal and physical rights of freedom, breaking up families, subjecting them to poor housing conditions, harsh climate, reduced incomes, uncertainty about their future, interruption of education, and so on.⁵

Although the removal was officially carried out on the basis of "national security," the Canadian government acknowledged that no evidence of espionage or sabotage was ever found among the entire community.⁶ The policies that followed the removal were even more difficult to explain by the "national security" logic. Unlike the parallel U.S. actions, the Canadian government confiscated the Japanese Canadians' property on the West Coast, and sold it without the consent of its owners for a tiny fraction of its value, while it was under the protective custody of the Custodian of Enemy Property. In 1945, towards the end of the war, Japanese Canadians were forced to choose between moving east of the Rockies and being deported to Japan. While Japanese Americans returned to their homes on the West Coast of the United States in 1946, Japanese Canadians were not allowed to enter the BC coastal area until April 1, 1949.

The historical injustice of the uprooting and subsequent violation of human rights was formally recognized and acknowledged on September 22, 1988, with the signing of the Redress agreement between the Government of Canada and the National Association of Japanese Canadians (NAJC).⁷ Through Redress, the Canadian government admitted that the wartime policy was influenced by racism. The government agreed to pay \$21,000 to each of the individual survi-

vors of the injustice as monetary compensation, and the Prime Minister announced an official apology in Parliament. Another \$12 million was offered to the Japanese Canadian community to encourage educational, social and cultural activities, and the Canadian Race Relations Foundation was to be established to promote better race relations in Canada. Redress was not only a victory for the Japanese Canadian community, which was the direct victim of the evacuation, but also a declaration of Canada's intent to alleviate its racist policies. In this sense, the Redress movement was a struggle for all Canadians who cared about civil liberties and the principle of equal justice under the law.

It is important to note that this removal happened when Canada was engaged in a war. All the government's actions against Japanese Canadians were legal under the invocation of the *War Measures Act*. The *War Measures Act*, passed in 1914 to deal with the national emergency in World War I, transferred the powers of Parliament to the Cabinet in times of "war, invasion or insurrection."⁸ The Cabinet was authorized to conduct policies through orders-in-council, which did not require any parliamentary or judicial sanctions.⁹ The judicial authorities could not stop the abuse of this emergency executive power, because, unlike the United States, Canada until 1982 had no constitutional guarantee for the protection of human rights.¹⁰

This paper discusses two important incidents in the forty-year struggle of the Japanese Canadian community to redress past injustice and to strengthen the protection of human rights in Canada. The two incidents demonstrate the involvement of the NAJC in two of the most important legal changes concerning civil liberties in the post-war Canadian history—the adoption of the *Canadian Charter of Rights and Freedoms* in 1982 and the replacement of the *War Measures Act* with the *Emergencies Act* in 1988. Japanese Canadians' wartime internment still stands as a warning of the potential for governmental abuse of power. Their participation in the political process of creating stronger guarantee of civil liberties in the post-war Canada deserves to be recorded, because their experience provides a bitter, but precious lesson for Canadians, presenting an example of how tragedy can happen when racism is legitimized by political institutions.

1) Pursuit of Civil Liberties Protection by the Post-war Japanese Canadian Community

Despite the general image of Japanese Canadians as a quiet, passive group of victims who silently cooperated with the authorities, the discriminatory governmental actions against the Japanese Canadians during the Second World War did not go unchallenged.¹¹ From the beginning, Japanese Canadians protested. The Nisei Mass Evacuation Group directly resisted the removal, when the government ordered men between 18 and 45 years old to leave their families and work in the highway construction camps regardless of their nationality or marital status.¹² Several hundred men who refused to leave the “protected area” were interned in prisoner-of-war camps in Ontario. Even among those who did not resist the policy openly, many shared the resentment towards the government conducts, which they felt were based on racism.¹³ Moreover, although the evacuation itself could not be legally challenged, as it could be and was challenged in the United States, the Japanese Canadians in 1943 sued the government to stop the confiscation of property and its sale without the consent of the owners.¹⁴ Many wrote letters to the government, resenting the sale of their property.¹⁵ The deportation orders were similarly legally challenged. The Cooperative Committee on Japanese Canadians, a group of sympathetic non-Japanese Canadians, worked with the Japanese Canadian Committee for Democracy, a group of Nisei in Toronto, to contest the deportation.¹⁶ They lost the struggle in legal terms, but politically they won.¹⁷ Although the courts acknowledged the government’s power under the *War Measures Act* to conduct the deportation, the strong public opinion against the unwilling deportation of citizens forced the government to alleviate the policy. Approximately 4,000 people left Canada, instead of 10,000, who would have left if the government did not allow the people to withdraw the “reparatriation” request.

None of these challenges legally prevented or corrected the injustices of the Canadian Government. Under the *War Measures Act*, the Cabinet was all powerful. By the time all the restrictions were lifted in 1949, Japanese Canadians had lost everything that the Issei pioneers had earned through their hard work. Impoverished and dispersed, they had to reconstruct their lives. Although a limited compensation was made through the Bird Commission in the late 1940’s, the authorities made no apology for the wartime policy until 1988. There has not been much historical study done on the 1950’s and 1960’s.¹⁸ The post-war reconstruction period still remains the “years of silence.”¹⁹

In 1977, the Japanese Canadian community celebrated the 100th anniversary of the Japanese immigration to Canada.²⁰ Aided by multicultural grants,

various events were held by Japanese Canadian communities in different parts of the country.²¹ Many events were cultural, including the first Powell Street Festival in Vancouver.²² A photo exhibition illustrating the history of Japanese Canadians was organized and toured Canada, the United States, and Japan.²³ Conferences were also held at various places. At the Japanese Canadian Youth Conferences in Toronto and Alberta, young Japanese Canadians discussed the possibility of creating a Sansei, or the third generation, organization. The most openly political event was the conference on the *War Measures Act* in Hamilton, Ontario.²⁴ Walter Tarnopolsky, a leading scholar on human rights and civil liberties, was invited to explain the implications of the *War Measures Act*, and how it affected Japanese Canadians' experiences in the Second World War. Gordon Hirabayashi, a sociologist who immigrated to Canada from the United States, talked about his own wartime experiences when he was convicted of violating the curfew imposed on Japanese Americans.²⁵ The conference concluded in a very clear awareness that the *War Measures Act* must be reviewed and changed.

The centennial events in 1977 heralded the revival of the Japanese Canadian community. The celebration provided an opportunity for the people to look back on their history with pride and on their struggle in a positive light, for many for the first time.²⁶ Even the cultural events were the expression of a new political awareness of the third-generation Japanese Canadians, who were constructing their new identity as an ethnic minority in Canada. In various forms of art, they began expressing anger against racism, which had caused the destruction of their community and great sufferings for their parents and grandparents. This transformation of the ethnic identity expressed by the younger Japanese Canadians was part of the great change that was happening throughout North America since the Civil Rights Movement, which necessarily brought about the reconceptualization of race relations in the dominantly white societies.

By the late 1970's, Japanese Canadian community was disintegrating at the organizational level.²⁷ Historically, the Japanese Canadian Citizens Association (JCCA) has functioned as a representative of the Japanese Canadian community. Established as a Nisei organization in Vancouver in 1935, the JCCA grew in influence during the internment and resettlement period, for it played a major role in negotiating with the authorities in order to secure jobs and places to live for those who were relocated. In the process of the forced dispersal, the

JCCA established chapters in provinces across Canada where the Japanese Canadians resettled themselves. Twenty years after the end of World War II, however, the JCCA had long been inactive in some communities or had even ceased to exist. The Japanese Canadian centennial celebrations in 1977 gave a strong incentive to re-organize the scattered ethnic community. The centennial events inspired numerous initiatives that had to be pursued further by the community, including the campaign for Redress, the development of historical research and documentation, building awareness on racism and human rights, the revision of the *War Measures Act* and the Canadian Constitution, as well as the promotion of cultural activities. Under these circumstances, the Japanese Canadian community became aware of the necessity of a new political body at the national level.

In 1980 the National Association of Japanese Canadians was founded. It was a re-arrangement of the pre-existing organization, the National JCCA. The birth of the new association, however, meant more than renaming the previous Toronto-centred association, but restructuring the Japanese Canadian community leadership and the democratization of the nation-wide ethnic organization.²⁸ All Japanese Canadian community centres across Canada were invited to join the NAJC, whether they were previously affiliated with the JCCA or not.²⁹ The different agendas of the many separate Japanese Canadian organizations were integrated into the various committees in the NAJC.³⁰ With the leadership of the NAJC, Japanese Canadians were finally ready to start their fully active political participation as an ethnic community. Their first political initiative was to participate in the legislative process of creating the *Charter of Rights and Freedoms*.

2) Meanings of Democracy: NAJC's presentation in the Special Joint Committee on the Constitution

After the Quebec referendum in May 1980, the intergovernmental negotiations and public debates on the constitutional reform began as Prime Minister Trudeau had promised.³¹ The discussion on the constitutional reform extended to well beyond the formal political institutions such as the political parties and Parliament. Journalists, academics, organized groups, including women's groups and First Nations groups, as well as private citizens took part in the debate and expressed their opinions in the public arena.³² Some Japanese Canadians felt

that they had something important to say in the debate on the human rights aspect of the constitution.

Shortly after its foundation, the NAJC sent three delegates to Ottawa to participate in the Special Joint Committee on the Constitution of Canada.³³ On November 26, 1980, Gordon Kadota, the president of the NAJC, Roger Obata, a World War II veteran from Toronto, and Art Shimizu, the Chairman of the Constitution Committee of the NAJC, delivered presentations and answered questions from committee members.³⁴

The NAJC adopted a historical approach to the issues of the constitution and human rights in Canada during the presentation. Kadota explained that the NAJC sought an audience with the committee:

... because the Japanese Canadians have had a unique experience in Canada, an experience which more than ever must be told to contribute to the making of our future nation. Our history of Canada is a legacy of racism made legitimate by our political institutions, and we must somehow ensure that no group of Canadians will be subjected to the whims of political process as we were.³⁵

Roger Obata, a powerful witness of the internment himself, read the life story of Ms. Hide (Hyodo) Shimizu, who was also present.³⁶ Ms. Hyodo was the only Japanese Canadian public school teacher before World War II, and she was selected as one of the four delegates who went to Ottawa in 1936 to demand the enfranchisement of Japanese Canadian citizens.³⁷ She supervised the elementary education of the children in the BC interior camps during wartime. Obata also shared his own experience as a World War II veteran.³⁸ He described how his mother was forced to vacate her home on four hours' notice. All personal belongings and furniture were looted. Their house was sold without his or his mother's consent, when Obata was in Canadian uniform.³⁹ By presenting life stories of a Japanese Canadian woman and himself, Obata demonstrated injustice as a personal experience. He quoted Ms. Shimizu, who described the emotional scar among the people in the community that was caused by the uprooting:

There are lingering bitter memories in the minds of those who, even to this day, cannot accept the tragic fate of our wartime experiences. These are part of the trauma this very sad experience [*sic*]. It has been 35 years. I am a Christian woman, so I have forgiven, but it is very difficult to forget.⁴⁰

In his presentation, Obata gave a clear example of what could happen when the civil liberties of Canadians were not respected. If it could happen to them, it can happen to anybody. His presentation was intended to bring home to the committee members the importance of a human rights guarantee for all Canadians.

Art Shimizu pointed out the difference between the American and Canadian Constitutions.⁴¹ At the beginning of the war, the constitutions in both nations failed to protect the civil rights of their citizens of Japanese ancestry. But, thanks to the *Bill of Rights*, the United States government could not confiscate Japanese American property, nor deport the second-generation Japanese Americans or deprive them of their citizenship. The Canadian government had no legal problems in stripping Japanese Canadians of their property or deporting its own citizens.

It is true that even with the *Bill of Rights* enshrined in the constitution, Japanese Americans were removed from the U.S. Pacific coast. But nine months before the war was over, the U.S. government terminated the internment policy. In *Mitsue Endo* Case on December 18, 1944, the U.S. Supreme Court unanimously ruled that Endo could not be denied entry to any part of the U.S. open to any other loyal citizen.⁴² Although the Supreme Court decision was carefully worded so that it did not recognize the injustice of the internment policy itself, the decision made it obvious that the internment of citizens solely on the basis of their racial background could not be tolerated within the U.S. legal system. Japanese Canadians did not have these protections. Nothing in the Canadian Constitution guaranteed their rights and freedoms. This, the NAJC argued, demonstrates the importance of human rights guarantee enshrined in the Constitution itself.

The presentation of the NAJC, based on historical experience, raises a question concerning the meaning of democracy in Canadian society. In the most general usage of the term, democracy means rule by the people. Public opinion

is considered to be very important aspect of this notion. This interpretation of democracy is adopted in some of the past studies on the wartime experience of Japanese Canadians. For example, in *White Canada Forever*, Peter Ward insists that the Mackenzie King government simply responded to public opinion in British Columbia in its decision to remove the Japanese Canadians, and therefore had no choice.⁴³ P. E. Roy, *et. al.*, take a similar stand in *Mutual Hostages*.⁴⁴ Under this meaning of democracy, individual rights cannot be protected if the majority of the population supports, or demands, the violation of rights of fellow residents.⁴⁵

On the other hand, the protection of individual and minority rights is one of the fundamental concepts in a democratic society. Under this interpretation, democratic principles require that injustices such as those experienced by Japanese Canadians should not happen.⁴⁶ In this sense, Canada clearly failed to live up to its democratic principles. The actions of the government toward its Japanese Canadian citizens between 1941 and 1949 cannot be justified in any way, because the country did not comply with the principle of equal justice under the law, and violated individual human rights without due process.

The adoption of the *Canadian Charter of Rights and Freedoms* as a part of the Constitution Act of 1982 was a major progress in the Canadian legal system in terms of the protection of human rights and civil liberties. The *Charter*, however, did not offer the complete protection of human rights, and therefore, cannot guarantee by itself that the wartime experience of Japanese Canadians will not recur. Section 33 authorizes Parliament or a legislature to pass laws notwithstanding the fundamental freedoms (section 2) or legal (section 7) or equality rights (section 15) in the *Charter*. As Ann Sunahara argues, section 6, the mobility rights section, guarantees the rights of Canadian citizens to “enter, remain in and leave Canada,” and “take up residence in any province,” but it may not guarantee the right to remain in any part of Canada.⁴⁷ Japanese Canadians were only banned from living within 100 miles of the Pacific coast. Even using the *Endo* case as the standard, disloyalty may “make the denial of mobility rights demonstrably justifiable in a free and democratic society.”⁴⁸ The assessment of disloyalty can be quite arbitrary, as demonstrated in the statement by Mackenzie King in 1944.⁴⁹

The NAJC was dissatisfied with the incomplete human rights protection by the Charter. In 1980, the Commission on the Wartime Relocation and Internment of Civilians was established south of the boarder, and the hearings of

Japanese American experiences were conducted in 1981. In contrast, the Trudeau government refused the demand of Redress in Canada on the grounds that it was not necessary because the *Charter* took care of the NAJC's concerns. Under these circumstances, the Redress issue became all the more important for the NAJC. The ultimate purpose of Redress was to assure that the tragedy of the uprooting never happen again to any Canadians, and also the emphasis was put on the individual compensation because the uprooting affected each Japanese Canadian as an individual as was illustrated in Obata's presentation.

The actual influence of the NAJC's presentation on the constitutional reform process was probably minimal. As Roger Gibbins admits, despite the active involvement of the ordinary citizens in the constitutional debate, "little progress was made until November 1981 when Ottawa and nine of the ten provincial governments...endorsed a constitutional accord."⁵⁰ But this period marked the beginning of the increasing importance of the role of ordinary citizens in the Canadian constitutional reform, which was indisputably shown in the defeat of the Charlottetown Accord in the national referendum ten years later. It is most unlikely that any future constitutional reforms will be accomplished without a referendum.

Considering the political culture of the present world, it will be extremely difficult for the Canadian government to legally conduct an openly racist policy in the future under the *Constitution Act of 1982*. Public opinion is more sensitive to human rights issues and ethnic minorities are more vocal than half a century ago. We should not forget, nevertheless, that, should times change, and public opinions become less tolerant, legally there is a potential threat for Canada to fail the test again.

3) Lessons from History: NAJC's contribution to the Legislative Committee on Bill C-77

In June 1987, Perrin Beatty, Minister of Defence in the Mulroney Government, announced plans to repeal the *War Measures Act*, and tabled Bill C-77, which would one year later become the *Emergencies Act*.⁵¹ The *Emergencies Act* is a major improvement in Canada's emergency legislation.⁵² Whereas the *War Measures Act* stated that the government's proclamation of the existence of emergency was sufficient for the Act to come into effect, under the *Emergencies Act*, the government must declare the existence of a national emer-

gency, define its category, and thereafter acquire parliamentary approval.⁵³ Not only the declaration, but the orders and regulations made under the declaration are subject to discussion and to revocation by Parliament.⁵⁴ The new act categorizes emergencies in four types: Public Welfare Emergency, Public Order Emergency, International Emergency and War Emergency. Powers are limited according to the type of emergency. A Public Welfare Emergency may be declared in case of a serious natural disaster; disease, accident or pollution.⁵⁵ A Public Order Emergency may be declared where there exist "threats to the security of Canada" as defined in the *Canadian Security Intelligence Service Act*.⁵⁶ An International Emergency may be declared when Canada is subject to intimidation, coercion, or the real or imminent use of serious force or violence.⁵⁷ A War Emergency may be declared when war or other armed conflict involving Canada or any of its allies occurs.⁵⁸

Considering the profound implications of this Bill for human rights issues, the Defence Minister adopted an open attitude to criticism from those Canadians who were interested in this legislative change.⁵⁹ The Legislative Committee dealing with Bill C-77 invited a number of witnesses to express their opinions. They included the Canadian Bar Association, the Canadian Civil Liberties Association, the Canadian Labour Congress, la Ligue des Droits et Libertés, and the Parliamentary Press Council.⁶⁰ A few organizations were granted an opportunity to make a presentation on request. Of the ethnic groups that applied, the Ukrainian Canadian Committee and the NAJC were permitted to make an appearance before the Legislative Committee.⁶¹ While the witnesses acknowledged the importance of protecting human rights in emergency situations, the two ethnic organizations, the NAJC and the Ukrainian Canadian Committee, represented the ethnic groups that had been actual victims of capricious orders during war emergencies.⁶²

The government, aware of the existing discontent for the Bill, proposed a wide range of amendments in the Legislative Committee.⁶³ These amendments answered some of the concerns expressed by such organizations as the Civil Liberties Association. Several important changes were suggested. The wording of the Bill was changed so that the government's proclamation of an emergency and the actions taken under the emergency situation could be challenged in the courts, and the onus to prove the legitimacy of the restriction of the civil liberties was to lie on the government's side. The definition of an emergency was narrowed, and moved from the Preamble to the Body of the law. A Public

Welfare Emergency was only to be used for a natural disaster or a major accident, and not for an economic emergency. A Public Order Emergency was not to be used for termination of a labour dispute. An International Emergency could only be declared when the conflict threatened Canada, not just its allies. In all cases, the government would be required to compensate for damage or injury caused by its actions. The revocation of the declaration of emergency was made possible by either House of the Parliament acting on its own. The time limit for Parliament to strike down the declaration of emergency was removed.

The NAJC Legal Affairs Committee examined the original draft of the Bill, and concluded that it would not prevent the recurrence of the sort of injustices Japanese Canadians had suffered in the past. A sixty-page brief was prepared and the NAJC petitioned to appear before the Legislative Committee on Bill C-77. The government initially did not plan to invite any ethnic organizations to comment on the Bill to the committee, but was persuaded by the New Democratic Party Member of Parliament, Derek Blackburn, to at least let the most notorious victims of the *War Measures Act* appear.⁶⁴ Ann Sunahara, co-chair of the NAJC's Legal Affairs Committee, and Roy Miki, a member of the NAJC Redress Strategy Committee, appeared as witnesses on March 15, 1988, on the final day before the clause by clause reviews.⁶⁵ They argued that Bill C-77 still permitted the same arbitrary use of power by the Cabinet, and thus, if it had been the law in 1942, the same abuses of the human rights could have occurred.

The NAJC's approach was again based on historical experiences. Unlike the human rights groups and labour unions, which, for example, feared that an emergency could be declared in order to break a strike, the NAJC was not concerned about the *Emergencies Act* being invoked when there was no emergency.⁶⁶ The NAJC's main concern was the potential for government abuse of the emergency powers under a perfectly legitimate declaration of emergency, for instance, in a war situation. Japanese Canadians' civil liberties were violated by measures that were only tangentially related to the war. They were the product of political opportunism for which the war provided opportunity to implement.⁶⁷

For historical reasons, the NAJC was particularly keen to prevent Cabinet's abuse of power. Considering the fact that court cases failed in 1943 on the forced sales of property and in 1946 on the repatriation policy, the NAJC stressed the importance of being able to challenge the Cabinet's actions judicially.⁶⁸

They welcomed the system of parliamentary review, but expressed concerns over some particularities, such as the time limits given to Parliament to stop or reverse the government's actions.⁶⁹ The Bill C-77 draft limited the parliamentary discussion on the declaration of emergency to three days, and in order to revoke the orders or regulations, the motion had to be submitted within twenty days. In 1943, when the Cabinet authorized the Custodian of Enemy Property to sell the Japanese Canadians' property, this policy was explained in Parliament as a protective measure to prevent the further devaluation of the property. Several months later, when it became clear that the property was sold without the consent of the owners at unfair prices, there was nothing Parliament could do. The NAJC insisted that the same thing could happen again if there were time limits on parliamentary discussion. If a new piece of evidence came out after more than twenty days, the order or regulation could not be revoked.

The NAJC also saw a problem in the extension of the emergency declaration. While any extension of the declaration had to be reviewed by Parliament, there was no clause in the Bill requiring a review of the orders and regulations. The NAJC perceived this automatic extension of the orders and regulations as a problem.⁷⁰ In late 1945, the Mackenzie King government was planning to deport any Japanese Canadians to Japan who had signed a "repatriation request" in the summer of 1945. In order to have the power to carry out this plan, the government included that power in the *National Emergency Transitional Powers Act*, which was to replace the *War Measures Act* on January 1, 1946. The deportation of unwilling Canadian citizens was strongly opposed by Parliament, and the government withdrew the clause that made it possible. The government, however, took advantage of an existing clause of that Act that automatically extended any orders and regulations made under the *War Measures Act* before January 1, 1946. On December 15, 1945, the King government passed three Orders-in-Council that would carry out the deportation policy. In the court challenge that followed, the power of the Cabinet to carry out any order under the *War Measures Act* was affirmed.⁷¹

The NAJC challenge resulted in 65 changes to Bill C-77. The time limit is removed for revoking the Cabinet orders, regulations, and the declaration of emergency, and, when the emergency is extended each order and regulation must be reviewed by Parliament.⁷² Thus, under the Emergencies Act, Parliament has a stronger checking function, which is more likely to prevent the Cabinet's arbitrary use of power.

Last but not least, the government proposed an amendment making compensation mandatory. But that was not enough for the NAJC, because the Bill authorized the Cabinet to decide a maximum amount for compensation and to exclude certain classes of people from eligibility. To quote the NAJC's brief, "The fact that the wrongs done Japanese Canadian remain uncompensated over 45 years after they began, is proof that leaving compensation solely in the hand of the perpetrator of the wrong, guarantees injustice."⁷³ The *Emergencies Act* was changed not only to make compensation mandatory, and but also to assign responsibility for deciding the amount to an Assessor who will be appointed from among the federal court judges.⁷⁴ The Cabinet's authority to exclude classes of persons from compensation was removed and the Assessor was given power to order greater compensation than the maximum set by the government.⁷⁵

The NAJC's brief included its concern over section 33 of the *Charter*, the "notwithstanding clause." It pointed out that, by using this clause in its orders, the Cabinet could legally violate the basic human rights in their policies.⁷⁶ To solve this problem, a clause was added to the *Emergencies Act*, which prohibited the Cabinet from making orders or regulations "altering the provisions of this Act."⁷⁷ The Preamble of the Act provides that the Cabinet, even under emergency situations, "would be subject to the *Canadian Charter of Rights and Freedoms* and the *Canadian Bill of Rights* and must have regard to the *International Covenant on Civil and Political Right*." With the above amendment, the government explained, the Cabinet alone cannot use the notwithstanding clause, unless the *Emergencies Act* is amended by Parliament.⁷⁸

To further strengthen the protection of civil liberties, the following section was added to the *Emergencies Act*:

S.4 (b) Nothing in this Act shall be construed or applied so as to confer on the Governor in Council the power to make orders or regulations providing for the detention, imprisonment or internment of Canadian citizens or permanent residents as defined in the Immigration Act on the basis of race, national or ethnic origin, colour, religion, sex, age or mental or physical disability.

These are some of the amendments that were made before Bill C-77 came

into force as the *Emergencies Act* in July 1988. The NAJC is an ethnic organization and, unlike the other participants in the Legislative Committee such as the Canadian Bar Association and the Canadian Civil Liberties Association, does not usually have an influence in the law-making process.⁷⁹ Yet, by presenting the committee with concrete historical evidence of how governments abuse power, the NAJC helped to make Canada's emergency legislation a more responsible document that sets out the principle that strong protection of human rights must continue in emergencies. Their contribution was acknowledged by several Members of Parliament during the Third Reading of the Bill.⁸⁰ Marc Ferland, a Progressive Conservative Member of Parliament from Quebec, expressed his appreciation for the involvement of the NAJC as follows:

“Never again!” Japanese Canadians told us. The Government listened to them. The *War Measures Act* will be repealed and the *Emergencies Act* will contain guarantees making a recurrence of the persecution they suffered impossible. The National Association of Japanese Canadians made many recommendations, and they were followed. The amendments adopted by the Government are along the lines desired by this association. Further guarantees have even been added.⁸¹

During the process of creating the *Emergencies Act*, the government several times drew upon the generally “benign” image of the Canadian state in support for less specific wordings in the Bill. Japanese Canadians’ experiences contradicted this good image, strongly arguing for specific legal protection of civil liberties, and not depending on the goodwill of the government. The tireless efforts made by the NAJC, with strong support from the Japanese Canadian community as well as many other groups in Canada, succeeded in assuring that the bitter lesson from history had a positive effect on Canadian civil liberties legislation.⁸²

Conclusion: Lessons from History?

Japanese Canadians participated in the two important legal changes concerning civil liberties and emergency legislation in post-war Canada. As vic-

tims of historical injustice, their voice added legitimacy to the debate. The NAJC's participation in the *Emergencies Act* debate was part of its ongoing political action to achieve Redress for Japanese Canadians. The review and amendment of the *War Measures Act* and the *Charter of Rights and Freedoms* had always been an important part of the demands of the Redress Movement.⁸³ As a matter of fact, this was the distinctive feature of the Canadian Redress in contrast to the American Redress. In the United States, the constitutionality of the internment was contested in court. In the 1980's, Japanese Americans struggled to right the past in two separate fronts; the Redress campaign in the political arena, and the writ of error coram nobis cases in the judicial arena. In Canada, the abuses of Japanese Canadians were legal, and therefore the Redress campaign had to include the demand to change the legislation itself. In August 1998, one month after the *War Measures Act* was repealed, the NAJC reached an agreement with the Mulroney government, which was announced in Parliament on September 22, 1988. Six months before the Redress settlement, Roy Miki, in the NAJC presentation in the Legislative Committee on Bill C-77, emphasized the importance of Redress for the future of Canadian democracy:

[A] negotiated settlement with Japanese Canadians will stand as a warning to all future governments that Canada will not tolerate the abuse of individual rights. It is important that Bill C-77 be amended to have compensation determined independently of Cabinet. However, it must be emphasized that Bill C-77, like the *War Measures Act* before it, is only one piece of legislation and could be scrapped at any time by a future government. On the other hand, a negotiated redress settlement will remain as a permanent beacon and measuring rod for the preservation of human rights in our country.⁸⁴

It is often said that Redress had a cathartic effect on the shame and bitterness that the victims had carried since the Second World War.⁸⁵ Another effect of Redress was that it showed Canada's maturity and its ability to acknowledge past wrong in order to build a stronger society. At the same time, Redress should always function as a warning that racism can take a destructive form whenever the opportunity arises, if it is allowed by state institutions such as the legal

system. Canada, generally considered a democratic and humanitarian nation, is no exception.

Racism and other violations of human rights still exist in Canada. Numerous examples illustrate that minorities are still looked upon with prejudice and hostility.⁸⁶ Recent historical findings about the treatment of less privileged groups in Canada indicate that Canada as a state has not been as benign as it has been believed to be.⁸⁷ The wartime experiences of Japanese Canadians is still one of the best-known, best-documented incidents of historical injustice in Canada. Their sufferings should not be treated as an exception, or an aberration in Canadian history, but a valuable lesson and warning for future generations. As the community recovered from its years of silence, Japanese Canadians struggled to make their voices heard. As historians, we have an obligation to assure that these voices are heard, which would be otherwise buried in the deep river of historical oblivion.

Notes

This research could not have been conducted without the help by Art Miki and Gordon Kadota, the former presidents of the NAJC. I would like to thank the numerous Japanese Canadians who shared their life stories with me in the interviews. I would also like to express my appreciation to Patricia E. Roy, Thomas Shoyama, Ann Sunahara, Arif Dirlik, Elizabeth Vibert, and John Stanton for their careful editing and constructive comments on this article. Roy Miki and Audrey Kobayashi gave me some information on the Redress campaign during a series of informal conversations. Last but not least, I would like to acknowledge that this research was made possible by the financial assistance from the Canadian Government through the Government of Canada Awards.

1 The experiences of Japanese Canadians during World War II are documented quite extensively. There are a number of accounts based on the first-hand experiences, as well as some scholarly works. Government documents are also available. Forest E. La Violette, *The Canadian Japanese and World War II: A Sociological and Psychological Account* (Toronto: University of Toronto Press, 1948) is a detailed description of the event by a contemporary sociologist, but lacks a critical viewpoint of the evacuation policy itself. Ken Adachi, *The Enemy That Never Was: A History of the Japanese Canadians* (Toronto: McClelland and Stewart, 1976) is a historical study sponsored by the Japanese Canadian community. The book contains some errors in the description of the pre-W.W.II history of the Japanese Canadian community due to the author's inability to read the Japanese language, but the part on the evacuation is extremely valuable. Ann Gomer Sunahara, *The Politics of Racism: The Uprooting of Japanese Canadians during the Second World War* (Toronto: Lorimer, 1981) analyzes the government documents that were opened 30 years after the event. The book takes a critical position against the evacuation policy, revealing the racism of the politicians who were directly in-

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- involved in the decision-making process. Patricia E. Roy, J. L. Granatstein, Masako Iino and Hiroko Takamura, *Mutual Hostages: Canadians and Japanese During the Second World War* (Toronto: University of Toronto Press, 1990) offers a detailed analysis of the government, police and military documents, and takes a sympathetic stand for the government, which had to make a difficult decision in an emergency situation.
- 2 Canada did not have its own citizenship legislation until 1947. Canadians were considered British subjects until then. Unlike in the United States, where Issei, or the immigrant generation from Japan, were “ineligible for citizenship,” Issei in Canada were able to apply for naturalization. Nisei, the Canadian-born second generation, had British nationality by birth.
 - 3 The policy of uprooting was conducted in several stages. Before the total removal was enforced, the Cabinet ordered “enemy alien” male between 18 and 45 years old to work on the road camps in the interior British Columbia. After that many male Nisei were sent to Ontario. These policies caused much confusion and suffering for the people as they broke up the families. People who went to sugarbeet farms were allowed to keep the family together.
 - 4 Takeo Ujo Nakano, *Within the Barbed Wire Fence: A Japanese Man's Account of His Internment in Canada* (Toronto: University of Toronto Press, 1980) describes a Japanese national's experience in the road camp in interior BC and a prisoner-of-war camp in Ontario.
 - 5 One of the justifications which was used for the policy was that Japanese Canadians were moved for their own protection from the anti-Japanese violence on the West Coast, and that is why the policy was called “the evacuation.” This argument does not stand very strongly, however, because if that was the case, only the people who were actually (or likely to be) subject to violence should have been removed, and the government did not conduct any assessment for the matter. Also the fact that the people were not allowed to come back to the West Coast after the danger was over indicates that there were other motives for the policy. Concerning the policy, many euphemistic terms were used; evacuation (forced removal), interior housing project (internment camps), repatriation (deportation), etc. For the significance of the euphemistic terms in the Japanese American internment policy, see Raymond Y. Okamura, “The American Concentration Camps: A Coverup Through Euphemistic Terminology,” *The Journal of Ethnic Studies*, Vol.10, No.3 (1982), pp.95-109.
 - 6 J. L. Granatstein points out that the government's suspicion about the disloyalty of Japanese Canadians may have been justifiable. Even if that was the case, however, the mass removal as a policy still cannot be justified, since a democratic government should not treat individuals as “guilty until proved innocent.” J. L. Granatstein and Gregory A. Johnson, “The Evacuation of the Japanese Canadians, 1942: A Realist Critique of the Received Version,” in Norman Hillmer, Bohdan Kordan and Lubomyr Luciuk, eds., *On Guard for Thee: War, Ethnicity, and the Canadian State, 1939-1945* (Canadian Committee for the History of the Second World War, 1988), pp.101-129.
 - 7 Details of the Redress Movement are documented in Maryka Omatsu, *Bitter Sweet Passage: Redress and the Japanese Canadian Experience* (Toronto: Between the Lines, 1992), and Roy Miki and Cassandra Kobayashi, *Justice in Our Time: The Japanese Canadian Redress Settlement* (Winnipeg: National Association of Japanese Canadians, 1991).
 - 8 War Measures Act, R.s., c.W-2.
 - 9 Herbert Marx, “The Emergency Power and Civil Liberties in Canada,” *McGill Law Journal*, Vol.16, No.1 (1970), pp.39-91.

- 10 The absence of the guarantee of human rights in the *British North America Act* did not automatically mean that there was no human rights protection in Canada. It was considered that the British Common Law applied to Canadian society on the matter. Walter Surma Tarnopolsky, *The Canadian Bill of Rights* (2nd ed., Toronto: McClelland and Stewart Limited, 1975), pp.29-31.
- 11 The historical interpretation of their cooperation with the government policy is a complex issue. Until the 1970's, the stories of those who resisted were kept quiet in both the Japanese Canadian and the Japanese American communities. Since the late 1970's, the re-evaluation of the resistance in general began as the nationalist discourse became open to question. During the Redress movement, the Sansei started to criticize the Nisei for having cooperated with the government's racist policies. For the Nisei leaders, however, resisting the government during wartime was impractical and impossible considering the welfare of the community as a whole, and it would be unfair to criticize their decision without considering the particular situation that they had to face at the time of the event. Interview with Thomas Shoyama, Victoria, BC, June 3, 1997.
- 12 About the Nisei Mass Evacuation Group, see Yon Shimizu, *The Exiles: An Archival History of the World War II Japanese Road Camps in British Columbia and Ontario* (Wallaceburg, Ontario: Shimizu Consulting and Publishing, 1993). The Nisei Mass Evacuation Women's Group supported the actions of the Men's group. Their statements (in Japanese language) are displayed in the Nikkei Internment Memorial Centre in New Denver, BC.
- 13 Muriel Kitagawa in her letters to her brother often compared the Canadian government policies to the Nazi policies in Germany. It should be noted that these letters were written in 1942, and not in hindsight. Kitagawa, *This is My Own*.
- 14 Three Japanese Americans challenged the restrictions on their civil liberties. Gordon Hirabayashi and Minoru Yasui violated the nighttime curfew, and Fred Korematsu remained in the protective area after the rest of the Japanese Americans were removed. All three were convicted. *Hirabayashi v. United States*, 320 U.S. 81 (1943), *Yasui v. United States*, 320 U.S. 115 (1945), *Korematsu v. United States*, 323 U.S. 214 (1944). For details, see Peter Irons, *Justice at War: The Story of the Japanese American Internment Cases* (Oxford University Press, 1983).
- 15 Muriel Kitagawa, Roy Miki, ed. *This is My Own: Letters to Wes & Other Writings on Japanese Canadians, 1941-1948* (Vancouver: Talonbooks, 1985), pp.182-185. Roy Miki and Cassandra Kobayashi, *Justice in Our Time*, p.59.
- 16 *Cooperative Committee on Japanese Canadians v. Attorney General for Canada* [1946] 3 D.L.R.321 (S.C.C.): [1947]1 D.L.R.577 (P.C.). As well as campaigning against the deportation, the Japanese Canadian Committee for Democracy advocated the enlistment of the Nisei in the Canadian Army. See their monthly newsletter, *Nisei Affairs* (Toronto: Japanese Canadian Committee for Democracy, July, 1945 - June, 1947). For Details on the deportation policy and the public campaign against it, see La Violette, *The Canadian Japanese and World War II*.
- 17 Ann Gomer Sunahara, "Deportation: The Final Solution to Canada's Japanese Problem?" in Jorgen Dahlie and Tissa Fernando, eds., *Ethnicity, Power and Politics in Canada*, Vol.8, Canadian Ethnic Studies Association (Toronto: Methuen, 1981).
- 18 In the late 1940's and the early 1950's, many discriminatory pieces of legislation were abolished, sometimes through direct appeals, sometimes through court cases initiated by the racial and ethnic minorities. The most

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- important of these changes was the enfranchisement of the Asians in British Columbia in 1948. In 1960, the Diefenbaker government passed the *Canadian Bill of Rights*. The effect of this legislation was limited, however, since it was only an ordinary piece of legislation and not a part of the constitutional reform. Following the federal legislation, each province introduced human rights legislation as well. James W. St. G. Walker, "Race," *Rights and the Law in the Supreme Court of Canada: Historical Case Studies* (The Osgoode Society for Canadian Legal History and Wilfrid Laurier University Press, 1997), p.326.
- 19 In the 1960's, some younger generation Japanese Canadians became politically active. For example, Tamio Wakayama was involved in the Civil Rights Movement in the United States, and members of an Asian Canadian study group at the University of British Columbia called "Wakayama Group" studied the issues of racism and discrimination. These younger Japanese Canadians later became active in the community activities. Interviews with Tamio Wakayama, Vancouver, BC, January 17, 1998; Ken Shikaze, Vancouver, BC, January 18, 1998; and Mayumi Takasaki, Vancouver, BC, January 19, 1998. For the activities in this period, see also, Rick Shiomi, "Community Organizing: The Problems of Innovating and Sustaining Interest," in K. Victor Ujimoto and Gordon Hirabayashi, eds., *Asian Canadians Regional Perspectives: Selections from the Proceedings Asian Canadian Symposium V, Mount Saint Vincent University, Halifax, Nova Scotia, May 23 to 26, 1981* (1981), pp.339-354.
 - 20 The first Japanese immigrant in Canada is said to be Manzo Nagano, who settled in Canada in 1877.
 - 21 Japanese Canadian Centennial Society was created as the coordinator of the centennial events, independently from the pre-existed ethnic organization, the JCCA (Japanese Canadians Citizens Association), but many people who were leading the Society were the leaders of the JCCA as well.
 - 22 Powell Street Festival is a Japanese Canadian community festival, which has been held annually in the summer in Vancouver since 1977. The pamphlet of the First Powell Street Festival is available in the University of British Columbia Library, Special Collections, Japanese Canadian Centennial Society, Arts Workshop, *Powell Street Festival*, June 11 and 12, 1977. For the history of the Powell Street Festival, see Tamio Wakayama, *Kiyo: Coming Home to Powell Street* (Harbour Publishing Co. Ltd., 1992).
 - 23 The collection of photographs from the exhibition was later put together into a book. Japanese Canadian Centennial Project (JCCP), *A Dream of Riches: The Japanese Canadians, 1877-1977* (Vancouver: JCCP, 1978).
 - 24 Hamilton Japanese Canadian Centennial Society, *Proceedings of the War Measures Act Conference, in Hamilton, Canada, April 23, 1977* (London, Ontario: Peter Anas Publishing Ltd., 1978).
 - 25 Later, in the 1980's, Gordon Hirabayashi made his second challenge to the Japanese American internment policy in the US justice system. Gordon Hirabayashi, Fred Korematsu, and Minoru Yasui filed the petition for writ of error *corum nobis*, after an important Justice Department document was discovered in 1981. The document indicated that the Justice Department and military officials had suppressed, omitted, and destroyed documents that proved that Japanese Americans were no threat to the national security. Hirabayashi and Korematsu's convictions were reversed. *Korematsu v. United States*, 584 F Supp.1406 (N.D.Cal.1984), *Hirabayashi v. United States*, 627 F. Supp.1445 (W.D.Wash.1986). For details, see Peter Irons, ed. *Justice Delayed: The Record of the Japanese American Internment Cases* (Middletown, Conn.: Wesleyan University Press, 1989).
 - 26 "Japanese Canadian Centennial 77," *Rikka*, Vol.4, No.2 (Summer 1977), p.3.

- 27 Interview with Gordon Kadota, Vancouver, BC, January 19, 1998. A Sansei, Brice Kambara, at the JCCA National Conference, also expressed this view in 1977. *The Minutes of the 8th National Conference of the Japanese Canadian Citizens Association*, October 8-10, 1977, Winnipeg, Manitoba, p.3. In 1979, the delegates from various Japanese Canadian communities expressed serious concerns about the organization of the regional JCCAs. *Minutes: National JCCA Pre-Conference Meeting*, November 24-25, 1979, Vancouver, BC.
- 28 The previous association had become a personal organization of a group of Toronto Nisei, headed by George Imai, who was accepted as the representative of Japanese Canadians by the federal (Liberal) government through personal connections.
- 29 Instead of the province-based Chapter system of the JCCA, a community-based Centre system was adopted. Interview with Gordon Kadota, Vancouver, BC, January 19, 1998.
- 30 *Release, National Association of Japanese Canadians (NAJC) (Formerly known as National JCCA)*, June 4, 1980. Courtesy Gordon Kadota.
- 31 Constitution reform in 1982 had two highlights: 1) the patriation of the British North America Act, and 2) the addition of the *Canadian Charter of Rights and Freedoms* in the new constitution. The historical background of the constitutional reforms is documented in Filippo Sabetti, "The Historical Context of Constitutional Change in Canada," *Law and Contemporary Problems*, Vol.45, No.4 (Autumn 1982), pp.11-32.
- 32 Roger Gibbins, *Conflict and Unity: An Introduction to Canadian Political Life* (Scarborough: Nelson Canada, 1994), pp.333-334.
- 33 Originally, the NAJC was going to submit a written position paper to the Committee, but later decided to send a delegation to Ottawa and make an oral presentation. NAJC correspondence from Gordon R. Kadota to NAJC Executive Committee, All Centres Across Canada, All Sub-Committee Chairpersons, Senior Members of the Japanese Canadian Communities, November 14 and 22, 1980.
- 34 *Minutes of Proceedings and Evidence of the Special Joint Committee of the Senate and of the House of Commons on the Constitution of Canada*, Issue No.13, Wednesday, November 26, 1980.
- 35 Special Joint Committee, 13:5.
- 36 Special Joint Committee, 13:7-8.
- 37 Some Nisei were qualified to teach, but because of the racial discrimination, they couldn't get a job as teachers in BC. Ms. Hyodo was hired to teach in Steveston because the majority of pupils were Japanese there, but the irony was that she could only speak English. For the detail of the Ottawa delegation in 1936, see Roy Ito, *We Went to War: The Story of the Japanese Canadians who Served during the First and Second World Wars* (Etobicoke, Ontario: S-20 and Nisei Veterans Association, 1984), pp.91-98.
- 38 Special Joint Committee, 13:8. About the Japanese Canadians who served in World War I and II, see Ito, *We Went to War*.
- 39 Roger Obata was a leader in the Nisei struggle for their right as citizens to be enlisted in the Canadian army.
- 40 Special Joint Committee, 13:7-8.
- 41 Special Joint Committee, 13:9-10.
- 42 *Ex Parte Endo*, 323 U.S.283 (1944)
- 43 W. Peter Ward, *White Canada Forever: Popular Attitudes and Public Policy Toward Orientals in British Columbia* (Montreal and Kingston: McGill-Queen's University Press, 1978).

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- 44 Patricia E. Roy, et. al., *Mutual Hostages*.
- 45 Ann Sunahara expresses her doubt about the actual prevalence of the anti-Japanese public opinion in the wartime British Columbia. Sunahara, *Politics of Racism*, p.34.
- 46 National Association of Japanese Canadians, *Democracy Betrayed: The Case for Redress* (A Submission to the Government of Canada on the Violation of Rights and Freedoms of Japanese Canadians during and after World War II, November 21, 1984).
- 47 M. Ann Sunahara, "Justice at War: The Story of the Japanese American Internment Cases. By Peter Irons. Oxford University Press. 1983. p.407" (book review) *Supreme Court Law Review*, Vol. 7 (1985), pp.565-566.
- 48 Sunahara, "Justice at War (book review)," p.566.
- 49 "Prime Minister W. L. Mackenzie King on the Question of Loyalty," Canada, *House of Commons Debates*, August 4, 1944. Cited in Adachi, *The Enemy that Never Was*, pp.441-443.
- 50 Gibbins, *Conflict and Unity*, p.334.
- 51 "War Measures Act to be Repealed, Replaced by New Legislation," *News Release*, Emergency Preparedness Canada, June 26, 1987. Bill C-77 was introduced as "an Act to authorize the taking of special temporary measures to ensure safety and security during national emergencies and to amend other Acts in consequence thereof (short title: The Emergencies Act)," *House of Commons Debates*, June 26, 1987, p.7685.
- 52 Elliot Tenofsky, "The War Measures and Emergencies Acts: Implications for Canadian Civil Rights and Liberties," *American Review of Canadian Studies*, Vol.19, No.3 (1989).
- 53 War Measures Act, s.2. Emergencies Act, 35-36-37 Elizabeth II, c.29, July 21, 1988, S.58, S.59.
- 54 Emergencies Act, S.61.
- 55 Emergencies Act, S.5.
- 56 Emergencies Act, S.16.
- 57 Emergencies Act, S.27.
- 58 Emergencies Act, S.37.
- 59 To quote the statement by the Minister of National Defence, "I also totally agree that we will need testimony from both expert witnesses and ordinary Canadians to get this legislation right, for I know full well that it is an issue that touches the very lives and liberties of every Canadian. I urge the House to send the Bill to committee with the least possible delay so that the committee can get on with its work of inviting the public to be heard." *House of Commons Debates*, November 16, 1987, p.10813.
- 60 House of Commons, *Minutes of Proceedings and Evidence of the Legislative Committee on Bill C-77*. Issue No.1, December 15, 1987.
- 61 House of Commons, *Minutes of Proceedings and Evidence of the Legislative Committee on Bill C-77*.
- 62 The Ukrainian Canadian Committee and the NAJC both made their presentations on March 15, 1988. Legislative Committee, Issue No.7, March 15, 1988.
- 63 Legislative Committee, Issue No.1, February 23, 1988.
- 64 Information provided by Ann Sunahara.
- 65 Legislative Committee, Issue No.7, March 15, 1988.
- 66 Legislative Committee, 7:45.
- 67 Japanese Canadians in British Columbia had been subject to racial discrimination for decades before they faced the uprooting. British Columbia had explicit legislative discrimination, such as the disfranchisement of

- Chinese, Japanese and East Indians, and the restrictions on immigration. Disfranchisement lead directly to some employment restrictions. In addition, various kinds of “de facto” discrimination affected their access to employment, residence, and places for socialization, etc. See W. Peter Ward, *White Canada Forever*, and Patricia E. Roy, *A White Man's Province: British Columbia Politicians and Chinese and Japanese Immigrants, 1858-1914* (Vancouver: University of British Columbia Press, 1989).
- 68 In the case on the sale of property, a petition was made to the Exchequer Court. The court took three years to decide if the Exchequer Court was accountable for the sales that were made by the Custodian of Enemy Property. In 1947, it was decided that the Custodian was not accountable before the Exchequer Court. In the deportation case, the courts decided that the deportation was within the power of the Cabinet under the *War Measures Act*. For more details on the court cases, see Sunahara, *The Politics of Racism*.
- 69 Legislative Committee, 7:40.
- 70 Legislative Committee, 7:40-41.
- 71 *Cooperative Committee on Japanese Canadians v. Attorney General for Canada* [1946] 3 D.L.R.321 (S.C.C.): [1947]1 D.L.R.577 (P.C.).
- 72 Emergencies Act, S.60.
- 73 *Submission to the Legislative Committee on Bill C-77 by the National Association of Japanese Canadians*, Legislative Committee, 7A:75.
- 74 Emergencies Act, S.32.2.
- 75 Emergencies Act, S.32.4.
- 76 Legislative Committee, 7:39.
- 77 Emergencies Act, S.4(a).
- 78 Ann Sunahara insisted that the notwithstanding clause could be used by the Cabinet, since when a national emergency is declared, parliament's power is temporarily transferred to the Cabinet. She suggested that this matter should be referred to the Supreme Court of Canada, and Derek Blackburn, an NDP MP and a member of the Legislative Committee, supported this idea, but the government refused to do so. Blackburn's statement, *House of Commons Debates*, April 25, 1988, p.14769. Sunahara's statement, *Senate Debates*, June 21, 1988, pp.3716-3723.
- 79 Among the non-governmental organizations, the most influential were the Canadian Bar Association and the Canadian Civil Liberties Association, which were initially asked for opinions on the Bill by the government. It is noteworthy, however, that the NAJC is named along with those two organizations as one of the three largest contributors for the improvement of the Bill. *House of Commons Debates*, April 25, 1988, p.14765.
- 80 See the speeches by Bud Bradley, Parliamentary Secretary to Minister of National Defence, *House of Commons Debates*, April 25, 1988, p.14765; Derek Blackburn, p.14769; and Russel MacLellan, p.14770.
- 81 Marc Ferland, *House of Commons Debates*, April 25, 1988, p.14772.
- 82 Some documents point out that the Redress campaign was not unanimously supported in the Japanese Canadian community. See, Tomoko Makabe, *The Canadian Sansei* (Toronto: University of Toronto Press, 1998). But it seems historically inaccurate to conclude that the Redress was conducted by a handful of activists and there were few supporters in the community, considering the countless rallies, conferences and meetings on Redress that took place across Canada during the decade before the Redress settlement. There were different opinions about how the Redress should be achieved, but that does not mean that the Redress issue itself was

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- unsupported. Interviews with Thomas Shoyama, Victoria, BC, June 3, 1997; Dick Nakamura, Victoria, BC, June 23, 1997. Moreover, even though the evaluation of the Redress varies in the present Japanese Canadian community, the political and legal significance of Redress in Canada continues to exist.
- 83 NAJC Redress Proposal, Submitted to the Federal Government, May 20, 1986, cited in Miki and Kobayashi, *Justice in Our Time*, p.97. Also see, House of Commons, *Equality Now!: Report of the Special Committee on Visible Minorities in Canadian Society* (Ottawa: Queen's Printer, 1984), pp.61-62.
- 84 Legislative Committee, 7:43.
- 85 For the psychological effect of the Redress on Japanese Americans, see Yasuko I. Takezawa, *Breaking the Silence: Redress and Japanese American Ethnicity* (Ithaca: Cornell University Press, 1995). Joy Kogawa describes the emotion right after the Redress settlement in her semi-autobiographical novel on the Redress movement. Joy Kogawa, *Itsuka* (Toronto: Viking, 1992).
- 86 For theoretical and empirical analyses of racism in Canada, see Frances Henry, Carol Tator, Winston Mattis, and Tim Rees, *The Colour of Democracy: Racism in Canadian Society* (Toronto: Harcourt Brace, 1995).
- 87 The forced removal of First Nations children from their families into the Indian Residential Schools is another example of Canada's historical injustice based on racism.