

NCJAR votes to appeal



NATIONAL COUNCIL FOR
JAPANESE AMERICAN REDRESS
925 WEST DIVERSEY PARKWAY
CHICAGO, ILLINOIS 60614
Eddie Sato Editor

Dear Friends,

July, 1984

ON SATURDAY AFTERNOON, June 30, 1984, in the home of Sam and Haru Ozaki, the NCJAR board met with attorney Ellen Godbey Carson. After much explaining and discussion, the board voted to proceed with the appeal of the U.S. District Court's dismissal of NCJAR's class action lawsuit. Two days later, on July 2, 1984, I signed a letter retaining the firm of Landis, Cohen, Singman and Rauh for this purpose. The decision was unanimous. The board's unanimity was helped by two factors: the strong, positive response to our fund appeal and Ellen's explanations.

In recent weeks, we've acquired five more ronin, bringing the total to 36. The new ones are: the Hall Committee, a Sansei group who sponsored a benefit dance on NCJAR's behalf and raised over \$1,500; Yaye Katayama, an elderly widow whose regular contributions reached \$1,000; Kumao Toda, a named plaintiff in the lawsuit and a retiree, who, in addition to several earlier contributions, is pledging \$100 a month for one year; two senior partners of Landis, Cohen, Singman and Rauh, Mike Rauh and Ben Zelenko as joint ronin; and Mieko Udaka, who actually became a ronin about a year ago and whose total contributions of \$1,000 was only recently noted. In addition to these new ronin, we've received many contributions from around the nation, all of which are noted elsewhere in the newsletter.

Ellen Godbey Carson is an excellent explainer of legal matters. During this Saturday afternoon meeting, she explained the meaning of Judge Oberdorfer's dismissal. She noted that while Oberdorfer's decision may be considered, laconically, a defeat, the decision's details contain important victories. The defendant United States presented three procedural barriers: sovereign immunity, American-Japanese Evacuation Claims Act of 1948, and statute of limitations. The barrier of sovereign immunity was penetrated by the "taking" clause of the Fifth Amendment, which protects individuals from the government's taking of their private property for public use, "without just compensation."

ELLEN REPEATEDLY reminded us that the dismissal was made on procedural grounds, hence the acknowledgment of the constitutional mandate in the Fifth Amendment for just compensation is not a ruling on that particular cause of action, but merely a ruling that the lawsuit could proceed to trial on that particular cause of action provided the remaining barriers could be surmounted.



ES.

The second barrier was the 1948 Evacuation Claims Act as the sole remedy for compensation for the "evacuation." Oberdorfer rejected this barrier because the Act was not constitutionally complete. For example, the Act failed to compensate for interest accrued between the time the losses occurred in 1942 and the time of payment many years later. This was a clear victory.

We were done in by the third barrier: statute of limitations. But even here, there was an important concession achieved by the lawsuit. The government argued for starting the six-year clock in 1942. We argued for starting it in the 1980s. Oberdorfer started it around 1949 or shortly thereafter. Even though Oberdorfer did not move its starting far enough ahead for us to proceed to trial, he did move it on the basis of historical fact.

Ellen also discussed other elements that will go into our appeal, and the desire of the law firm to encourage friends of the court briefs for submission with our own brief to the Court of Appeals. After Ellen's answering many questions from the board, the board voted affirmatively—with both hands up—for the appeal. (The appeal itself is distinct from the intent to appeal, which was voted on May 21, 1984. The intent to appeal will be filed in mid-July, following which case documents will be moved from the U.S. District Court to the U.S. Court of Appeals—in our case from downstairs to upstairs—where a panel of three judges will be selected randomly, and a calendar set for filings and oral arguments. The appeal itself will be filed within this calendar.)

LATER IN THE DAY, Ellen also spoke at a public meeting of around 50 people from the Chicago area. One interesting question raised was about the relationship between legislative redress and our court action: namely, what effect a legislative victory would have on our lawsuit? The two activities involve two separate branches of government: legislative and judicial. Legislative redress seeks compensation and other actions based upon the broad, moral issue of the unconstitutionality of mass exclusion and detention. The lawsuit seeks redress on 22 specific points of law and the Constitution. Were Congress to enact a law which would grant, say, \$20,000 per sur-

vivor, the lawsuit could still proceed. Were the lawsuit to succeed for, say, \$100,000 per victim, then for each survivor receiving \$20,000, the court would grant \$100,000 less \$20,000, or \$80,000. Of course the final outcome is contingent on many other factors, such as the definition of the class, the decision of the jury, the effects of any enabling legislation which might be enacted, and so forth. But I found this clarification enlightening.

ELLEN STAYED over for Sunday for preaching a sermon at the Parish of the Holy Covenant. Her applause-provoking sermon explained the covenant of love and justice, that exists between God and humankind, requires that, even as God provides love and justice, men and women need to act with love and justice in fulfillment of the covenant. Thereby, she explained her own involvement in the movement for Japanese-American redress.

Hannah Tomiko Holmes, one of our staunchest supporters, has consented to provide information to deaf persons who are on the TDD network by giving her number: (213) 726-1284. Hannah, in addition to being a ronin supporter, continually seeks ways she can help NCJAR. Her latest creations are Raggedy Ann and Raggedy Andy dolls, which she makes herself. The dolls are something NCJAR will probably be selling soon.



Peace,

William Hohri

qualified?

THE JUNE 30TH public meeting at Heiwa Terrace was a sobering occasion. Nevertheless, it was not all gloom. There were moments of laughter—especially during the question/answer part of the meeting.

Someone from the audience explained to Ellen Godbey Carson what happened when he recently reported for jury duty. A Cook County judge presiding over a minor accident case interviewed him regarding his qualifications. He said the judge seemed satisfied with his replies until he queried him as to whether he had ever been a victim of a crime.

HIS ANSWER was: "Yes, I was a victim of the worst miscarriage of justice in the history of our country. During WWII, I was incarcerated in an American concentration camp for three years—a gross violation of my constitutional rights.

The judge responded by saying, "Yes, I understand the situation you were in. But would that experience affect in any way your decision in this trial?"

The answer was, "Because I was unfairly treated by the United States government, I will bend over backwards to be fair."

The judge said, "Since you seem to have strong feelings on one side or another about this experience, you are excused. Leave the courtroom and wait outside."

BY THE WAY, that someone was Berry Suzukida, a resident of Heiwa Terrace, he said that he was disappointed not to be selected as a juror.

"I wonder though," said Suzukida, "what went through the judge's mind. Was he offended because I was critical of Uncle Sam's treatment of 120,000 human beings of Japanese descent during WWII? I'll never know."

IT IS NOT desirable to cultivate a respect for law so much as a respect for right.

Henry David Thoreau

BEGINNING with the recent fund appeal, we will list names of contributors in our newsletter:

Dorothy F. Aburano, Margaret Akagi, Catherine Dunlop Anderson, Frank S. Ando, Fred/Kiyoko Aoki, Paul Arakawa, Mary K. Amemiya, American Friends Service Committee, Kerry / Carolyn Berland, Kay Boyle, Noriko Bridges, Edna I. Chung, M/M Wayne H. Cole, Jean Coolidge, Rev. Kay Bevans Dillard, Richard/Lynne Doi, Richard Drinnon, Sue K. Embrey, Alice K. Esaki, Ruth Eto, M. Truman Fossum, Bernard Fromartz, Emi K. Fujii, Victor/ Kiyoko Fujii, Yosh/ Betty Fujiwara, Norman Hau, Don Y. Hibino, Richard I. Higashi, George/Lily Hirata, Sohei Hohri, William/Yuriko Hohri, Sandra Hoke, J. Paul Hurley, George Ikeda, Kenneth K. Inada, Haruko Ishiyama, John Iwakiri, M/M S. Iyama, Joseph W. Johnston, Tooru Masako Kanazawa, Charles Kikuchi, Fred T. Kishiba, Nelson/Taka Kitsuse, Aya Kobayashi, William K. Koseki, June Kushino, Dr. Burritt S. Lacy, Jr., Landis Cohen, Singman and Rauh, George A. Lee, Robert A. Levin, Virginia M. Mackenzie, George K. Matsuda, Noboru Mikasa, Clarence S. Miyashiro, M/M Mikio Miyashita, Paul/ Marjorie Miyazaki, Akira Nagaoka, Harry/ Setsuko Nagaoka, M.P. Nakada, Phil/Yasuko Nakamura, Philip Nash, Setsuko Matsunaga Nishi, Frank T. Nishimoto, Samuel Nakuzawa, Yoshi Ogata, Maryka Omatsu, George K. Omori, Doug/Gladys Ota, June Ota, Teiko Peterson, O.B. Rogers, Ken Sagami, Sage United Methodist Church, Leona Sanders, Eddie/Doris Sato, Mrs. Lloyd Sato, Yukiko Sato, Charles B. Schudson, Pete/Toshi Seeger, Lloyd/Yaeko Seki, June T. Shimokawa, Woodrow Shiogi, Louise H. Stewart, Mabel I. Suzuki, Tom Takeuchi, Benjamin S. Tani, Haruo/Jane Tamano, Kimi Tanino, Dr. George S. Tarumoto, Fimie Tateoka, M/M Joe Toda, M/M Thomas S. Tokuhisa, Yoshiye Uchida, Mas Uyesugi, Roy Uyetani, Chiyeko Watanabe, Tom Watanabe, M/M Yoshio Watanabe, John/Elsa Weber, Margaret Wilkins, Franklin J. Woo, Ben Yasuda, M/M Sonny Yonesawa.

NOTE: Some donors wish to remain anonymous. If you do not wish to have your name listed, please indicate when you remit.



LETTERS . . .

To the staff of NCJAR:

I WANT TO EXPRESS my appreciation to you and to Aiko and Jack Herzig for the monumental work you are doing. Thank you!
June Kushino

I WISH that we can make this dream come true.

Woodrow Shiogi
Portland, Oregon

WE ARE VERY pleased to support the work of NCJAR with the enclosed financial contribution and with our personal support for success in the lawsuit and educating the nation on the treatment of Japanese Americans during World War II and the causes of these actions.

Charles D. Smith
Ruth Gutama
Washington, D.C.

THANK YOU for your help in making the Viking Hall Reunion Dance II a success. We greatly appreciate your combined time and effort in supporting this Sansei community project.

Suzanne Ozawa
and the members
of The Hall Committee

The Hall Committee's second reunion dance was held on March 24, 1984 at the Midwest Buddhist Temple. The first dance was held in 1982 to help raise funds for the local Japanese American Service Committee. The reunion dances evolved from the "Viking Hall Days" when socials were held for the Sansei back in the '60s.

Whatever opinions you may have, drop a line. e.s.

assertive . . .

by Jim Spencer

THE GOVERNMENT agents came in the evening and without explanation took the man from his home. Though he was nothing more than a struggling storefront preacher, the state had labeled him a community leader and, therefore, a threat. So he was removed, transported hundreds of miles away and held for months without a hearing.

A short time later, authorities told his family they would have to go to a detention camp, where they were forced to live in a small cubicle inside a tar-paper shack and ate meals that sometimes included nothing more than cooked turnips and rice.

If it sounds like an Orwellian nightmare, think again. It happened in North Hollywood, California, four decades ago. And up and down the West Coast the scene was repeated until 120,000 people, none of them charged with any crime and most of them U.S. citizens, were interned behind barbed wire.

There is a skeleton in America's closet, and it is starting to rattle. Shaking the bones are Japanese Americans, who after 40 years of shame and selective memory are demanding that their government admit to and pay for a national tragedy. Until two years ago, the relocation of Japanese Americans to detention camps during World War II was not a widely discussed subject. Not even Japanese Americans cared to talk about it. But in the wake of a 1983 government report labeling the internment the result of "racial prejudice, war hysteria and a failure of political leadership," the so-called redress movement has become a celebrated cause.

IN 1983, Chicagoan William Hohri and others filed a \$25.2 billion class action lawsuit alleging that government officials conspired to deprive Japanese Americans and Japanese nationals in this country of their constitutional rights by fabricating security threats that led to the internment.

Last May, a federal judge dismissed the suit, saying the statute of limitations had expired. He never ruled on the evidence. But Hohri and other members of the National Council for Japanese American Redress, who raised \$75,000 to file the lawsuit, are now trying to come up with another \$30,000 to pay for an appeal.

Recently John Tateishi, director of the Japanese American Citizens League's redress program, sat in the studio of radio station WLNR in suburban Lansing, answering the questions of conservative commentator Warren Freiberg. Tateishi had come to the station as part of a promotional tour for his book, "And Justice for All," which is an oral history of the interviews with people who lived in the camps. Their conversation was on the internment and the redress movement.

As the discussion wound to a close, Freiberg challenged Tateishi: "So if you don't get these payments, are you going to go back to Japan?" Tateishi was stunned. "That's absurd," he replied. "I've never been to Japan."

The misconception--that Japanese Americans are Japanese first and Americans second is common enough to make it a stumbling block for the redress movement. It is one reason a vote on the reparations bills may be years away. But the issue, buried for so long by an embarrassed government, ignorant public and humiliated victims, is not going to go away.

TO ACCEPT the redress movement, America must come to grips with contentions that impugn an era of heroes and unparalleled nationalism. Defenders of the internment testified in Congress recently. John J. McCloy, assistant secretary of war under Roosevelt, maintained the exclusion was a military necessity, and a journalist presented evidence that secret cables about recruiting spies among Japanese Americans, minorities, communists and political dissidents were sent from Tokyo to the Japanese embassy and consulates in America. "All the cables show is intent," Tateishi maintains. "There's no evidence that Japanese Americans were ever recruited."

No matter, their existence and content "puts a little different cast to the commission report," says Rep. Dan Lungren (R. Calif.) who was a member of the Commission on Wartime Relocation and Internment of Civilians, who opposes monetary reparations. "What I'm saying is that the commission report, which says there was no military necessity, is in error. I still reach the bottom line conclusion of the report, but the cables shift (the reason for internment) from racism to war hysteria." Some Japanese American leaders view the cables controversy as yet one more attempt by the government to avoid embarrassment and scandal.

"When you talk about excluding the Japanese from the West Coast, you have to talk about racism at the highest levels of government," says Hohri. "People don't want to admit that." For the better part of 40 years, Japanese Americans didn't. For them, submission was a way of saving face during the internment; silence, a way of retaining pride afterwards. That meekness has been replaced by assertiveness and candor, whether it be in petitions to commissions, court or Congress. Today, reparations is the road to dignity. There is no longer any question about the end, only the means.

Edited:
CHICAGO SUDAY TRIBUNE
July 1, 1984

P O I N T / C O U N T E R P O I N T

ON JUNE 18TH, Sam Ozaki, NCJAR board member was among a group of panelists speaking on the internment of Japanese Americans and redress on Chicago's WLS radio talk-show "Point/Counterpoint."

Appearing with Ozaki were Chiye Tomihiro and Lary Schectman, co-chairpersons of the Chicago Chapter JACL Redress Committee. John Tateishi, JACL's national redress director, talked from New York with moderator, Carolyn Grisko.

Ozaki, who is the principal at Taft High School in Chicago, observed that a great deal remains in educating the public; and programs like "Point/Counterpoint" are very helpful. Not to be overlooked—Ozaki let the listeners know that the interned were placed in "concentration camps," better known as relocation centers.

a r e m i n d e r . . .

A BOOK SIGNING reception for John Tateishi, author of "And Justice for All" was held on June 22nd at Heiwa Terrace. The book is a compilation of interviews of those who testified at the CWRIC hearings in 1981. Out of 150 interviewed who "exposed their souls," thirty were selected for the book. "With each of them, there was a sense of dignity and raw honesty," said Tateishi.

The personal accounts of two NCJAR named plaintiffs are in "And Justice for All." From San Jose, California, there is Harry Ueno who was in Manzanar; and from Seattle, Washington—Theresa Takayoshi, who was in Minidoka. The camp experiences of four who now live in the Chicago area are also in the book. They are Tom Watanabe, Helen Murao, Jack Tono and Chiye Tomihiro.

An interesting passage in the book which serves as a reminder to the reader is: "They are the only group of Americans ever confined in concentration camps in the United States."

o b s e r v a t i o n s . . .

■ N A MEMORANDUM sent to NCJAR from Aiko and Jack Herzig were these tid-bits from Washington, D.C.

Although Jim Wright's (D-Tex.) name appears as the legislator who introduced HR 4110, it is no secret that the legwork (lobbying of other congresspersons to become co-sponsors) is being done by the office of Mr. Mineta.

The enabling legislation that NCJAR will attempt to have introduced in Congress should have a better chance of passage because it does not seek funds from Congress; instead, the bill would authorize the removal of the statute of limitations and waive sovereign immunity, thereby allowing the injured victims to get into the Courts.

A low groan from the audience was elicited, when the House subcommittee chair, Sam Hall, asked Masaoka: "When did you come to the United States?"

P L A I N T I F F ' S P L E D G E

■ TOO, AM SORRY the judge denied us our day in court. I think we ought to appeal. I also believe, like Jack and Aiko Herzig, about starting to canvass our politicians to propose a private bill so that the judiciary system must give us our day in court. I guess I am ready to pledge \$100 per month for one year--\$1,200 to back up my word. Those of you at the headquarters of this movement, please don't lose heart. I sincerely hope there will be others to sustain this "Nisei" judiciary goal.

Kumao Toda
Washington, D.C.

NOTE: After attending the House subcommittee hearings in June, Toda called to solidify his statements to "I do pledge." He felt the representatives were only giving "lip service" to the redress issue.

CORRECTION: It was brought to our attention regarding the radio interview (April 25) at Harvard, Illinois; that Al Doyle's mother was not interned. She came to the United States from Japan.

WASHINGTON— Elliott Roosevelt, son of President Franklin D. Roosevelt, told a nationwide television audience on June 27 that monetary compensation to former internees "has to be made, even though you can never really make it up to those people who were in those camps."

Roosevelt said his father, in issuing Executive Order 9066, which authorized the wartime military exclusion, "was given the wrong advice." He said, "The incarceration decision . . . was done principally upon the advice of the military commander of the West Coast."

Roosevelt said the hysteria "resulted in probably my father making the biggest mistake of his entire career as a president, which extended over more than 12 years."

THE REMARKS by Roosevelt were made during the Metromedia program "Panorama" in response to statements by JACL secretary-treasurer Frank Sato and anchor Maury Povich. When asked about redress, Sato told Povich that, "I think that there is a two-fold issue. I think that you know that in our form of government when you redress a wrong, compensation is the form. The current amount that is before Congress is a symbolic amount." Roosevelt agreed that compensation would be "purely symbolic."

"But it will have a meaning to the public and it will be there, that this was a terrible, terrible breakdown of our system of democratic government," he concluded.

C O R A M N O B I S



by Roger Shimizu

■ N REFUSING to grant the government's request to dismiss Hirabayashi's lawsuit, U.S. District Judge Donald S. Voorhees ordered an evidentiary hearing for June 17 of next year which would determine whether the petition for a writ of error coram nobis, a rarely used form of judicial review will be granted.

Voorhees—considered by those in the legal profession to be a consummately fair, sensitive judge—stated that he had not made up his mind as to the eventual outcome of the Hirabayashi case. The full hearing to review the federal actions taken in the internment of Japanese Americans during WW2 would help in the determination of Hirabayashi's case.

Arthur Barnett, co-counsel and one of the attorneys involved in the initial Hirabayashi defense of 42 years ago, told the Judge at the May 18 hearing in Seattle, that the pending case was the "challenge of the century" in its importance.

ALTHOUGH the actual trial—estimated to take two weeks—is more than a year away, the Hirabayashi legal team must plunge into a demanding schedule to prepare for the proposed pretrial order to be submitted to the government on August 17 of this year, according to Kathryn Bannai, lead counsel. Bannai added, "The pretrial order" itself is to be lodged with the court on January 17, 1985."

Edited: PACIFIC CITIZEN
June 8, 1984

a p o l o g y y e s . . .

m o n e t a r y n o . . .

■ N A REPORT to the Canadian parliamentary earlier this year on March 28, the House of Commons Commission on Visible Minorities proposed that one of its 80 recommendations provide monetary redress for the Issei and Nisei of Canada, who were interned during World War II.

The recommendations proposed by the Commission also called for a public acknowledgment of the government's wrongdoing and an amendment to the War Measures Act, which gave the government the power to remove Canadians of Japanese ancestry from their West Coast homes.

HOWEVER, on June 12, Multiculturalism Minister David Collette said, "Individual compensation for Nikkei internees will not be recommended to the Canadian cabinet." He indicated that the government would apologize to the survivors of the 22,000 internees and perhaps offer some form of group compensation.

YANKEE SAMURAI has been added to our list of books. It reveals to the reader the difficult tasks those in the military intelligence faced as translators, interpreters, interrogators and cave flushers in the battles that were fought on the islands of the Pacific and in the interior of SE Asia during WWII. The fact that they were of Japanese descent made it even more precarious. The author Joe Harrington, weaves in the names of all those who participated.

When the war with Japan began, no less than 100 persons had a real mastery of Japanese. The U.S. Army knew Japanese to be an extremely complicated language. For 30 years, the Pentagon withheld information regarding the vital role of the Nisei, and especially the Kibei—who quietly helped to bring an end to the conflict. Ironically, many of the "MIS'ers" were recruited from behind barbed wire.

YANKEE SAMURAI was published in 1979.
Joe Harrington died a year later.

available through NCJAR

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 - \$500 as a measure of my commitment.
 - \$100 and my hope that hundreds more will do the same.
 - \$___ and my very best wishes for success.
- (All contributors will receive our newsletter.)

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