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JACL

REDRESS QUESTION AND ANSWER FACT SHEET

NATIONAL COMMITTEE FOR REDRESS
JAPANESE AMERICAN CITIZENS LEAGUE

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1. WHY SEEK REDRESS? WHAT ARE THE ISSUES?

The Japanese American Citizens League is seeking redress on behalf of Japanese Americans and legal permanent residents of Japanese ancestry (the Issei) for their eviction and incarceration by an official act of the United States Government during World War II. This action was based solely on racial grounds and imposed without criminal charges, indictments or trials of any kind. It was a gross violation of rights guaranteed under the Bill of Rights and the Constitution.

The basic question being raised is: Are the guarantees enumerated in the Bill of Rights and the Constitution absolute for all people at all times, or are they conditional and subject to the desires of those in power or the mood of the times?

2. WHICH RIGHTS WERE VIOLATED?

Seven of the ten articles of the Bill of Rights were abrogated. They were as follows: Article I: (a) freedom of religion, (b) freedom of speech, (c) freedom of the press, (d) right to assemble; Article II: (e) right to keep and bear arms; Article IV: (f) freedom from unreasonable searches and seizures; Article V: (g) right to an indictment or to be informed of the charges, (h) right to life, liberty, and property; Article VI: (i) right to speedy and public trial, (j) right to be confronted with accusatory witnesses, (k) right to call favorable witnesses, (l) right to legal counsel; Article VII: (m) right to trial by jury; Article VIII: (n) right to reasonable bail, (o) freedom from cruel and unusual punishment; *further constitutional guarantees abridged were*: (p) right against involuntary servitude, (q) right to equal protection under the laws, (r) right to vote, (s) right to habeas corpus.

3. WHAT ARE THE BASES FOR YOUR CLAIM?

Defamation of character, false eviction, false imprisonment, loss of property, loss of income, loss of life and health due to government actions, emotional and psychological damages, damage to ethnic identity, disruption of family life.

4. WHAT DO YOU HOPE TO GAIN? WHAT ARE YOUR GOALS?

Compensation of sufficient magnitude to create a public awareness of the violations of constitutional rights during 1942-46, and a greater awareness of the need for vigilance to prevent similar unconstitutional conduct in the future.

5. DIDN'T THE SUPREME COURT RULE THAT THE GOVERNMENT'S ACTIONS WERE CONSTITUTIONAL?

Yes, the United States Supreme Court did in the Hirabayashi, Yasui, Korematsu, and key portions of the Endo decisions. But we hold that these decisions were wrong--morally and legally--and need to be overturned. The Court reflected the prejudices of the times and based its decisions on rumors, stereotypes, and speculation. There was no factual evidence to support its decisions.

6. WEREN'T YOUR LOSSES ALREADY COMPENSATED?

The Japanese American Claims Act of 1948 compensated only a small and inadequate fraction of the property losses alone. Even though there was no inflation corrections and no interest paid, loss of freedom, loss of income, death, injuries, loss of increased land values, mental suffering, etc., were not covered. The Federal Reserve Bank of San Francisco estimated actual tangible property losses to be at least \$400 million in 1942. Even at 3% interest per year, property losses would have totalled \$538 million by 1952 when the claims were settled. However, the government placed an unreasonable burden of proof on most of the claimants, who received a total of \$34 million, which amounted to 8 1/2% of the actual property losses.

7. WHY REDRESS NOW, AFTER 34 YEARS HAVE PASSED? WHY SO LONG A WAIT?

The time lag is an indication of the severity of emotional damage incurred. The wounds have to be at least partially healed before the victims can confront the offender. Also, it is not quite true that we simply waited. Efforts were made in the past and partial relief obtained. Examples of past actions are: the 1942-44 court challenges, the 1945-52 campaign to redeem property losses, the 1968-71 campaign to repeal the Emergency Detention Act, the 1969-72 effort to gain Social Security retirement credit, the 1975-76 drive to rescind Executive Order 9066, and the 1975-78 effort to secure retirement credit for federal employees.

8. ISN'T IT INCONSISTENT FOR THE JACL TO DEMAND REDRESS NOW, AFTER IT COOPERATED WITH THE GOVERNMENT AT THE TIME?

No. The JACL then was a small, young, and inexperienced organization with meager funds and practically no outside supporters. The older, established community leadership was destroyed by the FBI arrests. The JACL simply did not have the resources to resist the awesome armed power of the government and urged cooperation as the best means to demonstrate loyalty to, and faith in, the United States at a time when doing otherwise might have resulted in bloodshed, and the injury and/or even death of many Japanese Americans and possibly other American citizens. Moreover, the record will show clearly that JACL never did surrender its right to seek redress at an appropriate time; in fact, at its fateful meeting in the spring of 1942 when cooperation was decided as the only logical and reasonable alternative, it was resolved unanimously that at some future appropriate time JACL would seek meaningful redress for the travail, suffering, and monetary losses of this tragic experience. JACL now feels that it is time to redeem its pledge to all of Japanese ancestry in this country.

9. CONSIDERING THE TREACHEROUS SNEAK ATTACK ON PEARL HARBOR BY THE JAPANESE, WASN'T THE GOVERNMENT JUSTIFIED IN LOCKING UP THE JAPANESE?

As Americans, we were not responsible in any way for the acts of the government of Japan. We had absolutely nothing at all to

do with the bombing of Pearl Harbor or any other acts by the military forces of Japan. By the logic of the question, one could then ask, are Americans of German ancestry to be held accountable for the acts of Nazi Germany, or Americans of Italian ancestry for the acts of the Italian government during WWII? Remember, too, that Pearl Harbor is located in Hawaii, yet Americans of Japanese ancestry in Hawaii, greater in total number, were not locked up. To do so would have brought a halt to the economy of Hawaii because Americans of Japanese ancestry in Hawaii constitute a major portion of the working force there.

10. IF YOU DESERVE REDRESS, WHAT ABOUT THE AMERICANS WHO WERE KILLED OR INJURED AT PEARL HARBOR? AREN'T THEY, OR THEIR HEIRS, MORE DESERVING?

We are talking about damages caused to innocent American citizens by the United States Government. Individual payments by a nation to every individual of an opposing nation who suffered in the acts of war is unknown in history. In the act of war, one may suffer at the hands of the enemy but never from one's own country.

11. EVERYONE SUFFERED AND LOST DURING THE WAR, SO WHY SHOULD YOUR CASE BE CONSIDERED ANY DIFFERENT?

We made the same sacrifices that other Americans made, including giving our lives for this country on the battlefield. But no other group of Americans suffered eviction from their homes and indeterminate incarceration imposed by their own government. Our losses were not the result of enemy action, but the actions of the American government against American citizens.

12. WEREN'T THE AMERICANS IN JAPAN INCARCERATED?

The question poses an incorrect analogy. We are talking about people who were incarcerated en masse by their own government, such as the German citizens of Jewish faith who were locked up by their own government, Germany.

13. ARE YOU SAYING THAT THE INCARCERATION OF JAPANESE AMERICANS IS SIMILAR TO THE JEWISH EXPERIENCE IN THE NAZI CONCENTRATION CAMPS?

Obviously there are differences: the camps in Germany were death or extermination camps, while we experienced the frustrations of being innocent prisoners held in detention camps. However, there were also similarities: barbed-wire compounds with armed guards; prisoners of our own country; imprisoned without charges and only because of ancestry.

14. WASN'T IT A MILITARY NECESSITY BECAUSE OF THE DANGERS OF ESPIONAGE AND SABOTAGE?

If there were any such dangers, they did not come from Japanese Americans. No person of Japanese ancestry was ever charged with or convicted of espionage or sabotage. But numerous white persons

were charged and convicted as agents for Japan. The fact that the Japanese American population was of no threat was fully documented by the FBI, Navy Intelligence, and a special investigatory report ordered by the President. Furthermore, it was physically impossible for much of the Japanese American population to have engaged in espionage or sabotage--they were too young, too old, or too visible. If military necessity dictated eviction and detention, why weren't those of Japanese ancestry in Hawaii, 3,000 miles nearer the Japanese mainland and in an active theater of the war, also detained?

15. WASN'T IT JUST AN UNFORTUNATE NECESSITY BECAUSE THERE WAS A THREAT OF INVASION AND THERE WAS NO TIME TO DETERMINE WHO WAS LOYAL AND DISLOYAL?

If there was an actual threat of invasion, martial law should have been declared and the restrictions applied to everyone equally, as was the case in Hawaii. But martial law was not declared on the West Coast because our government and the military knew that Japan was incapable of landing an invasion force on the continental United States, especially after June 1942 (the battle of Midway in which the Japanese naval fleet was virtually destroyed). The question of who was dangerous was already determined through FBI and Navy Intelligence files. Anyone suspected of the crimes of espionage or sabotage should have been charged and brought to trial in the civil courts, which were in full operation.

16. WASN'T IT A PERFECTLY UNDERSTANDABLE WARTIME LAPSE CAUSED BY PANIC AND HYSTERIA?

The movement to exclude Japanese Americans from the West Coast had been going on for nearly 50 years, and the war was only a convenient pretext seized upon to accomplish that goal. The public did not suddenly and spontaneously go berserk; instead, a carefully calculated and organized hate campaign was conducted by the long-time anti-Japanese groups. For the first month of the war, the public was generally sympathetic or indifferent toward Japanese Americans, but as the months wore on and as any initial shock should have subsided, the hate campaign started to achieve results. Furthermore, panic and hysteria should never justify the abrogation of constitutional guarantees.

17. WEREN'T MOST OF THE ADULTS ENEMY ALIENS, AND THEREFORE SUBJECT TO SUMMARY DETENTION DURING A WAR?

The so-called "enemy aliens" were legal permanent residents of the United States who were fully entitled to constitutional protections of the Bill of Rights. They were "aliens" only because they were prohibited by law from becoming naturalized citizens. Presidential Proclamation #2525, which was based on a 1798 statute, did permit the apprehension of certain "enemy aliens," but only those individuals against whom there was specific evidence to show they were dangerous to the safety of the United States, and all such individuals had the right to a hearing in a court of law to determine if there was sufficient cause for removal or detention. Only those persons arrested under individual warrants by the FBI and placed in Department of Justice internment camps fell into

this category--and they comprised just 5% of the total number of Japanese "aliens" who were incarcerated. Japanese nationals could have been detained as "prisoners of war" under provisions of the Geneva Convention of 1929, and many of the detainees demanded POW status, but the government refused to recognize them as POWs because many of the Geneva Convention rules would then be violated. Also, it should be noted that German and Italian "enemy aliens" --who, incidentally, were free to become United States citizens-- were not imprisoned en masse.

18. WEREN'T MOST OF THE CITIZENS WHO WERE INCARCERATED CHILDREN WHO HAD TO ACCOMPANY ENEMY ALIEN PARENTS?

Under our legal system, children are not locked up just because their parents are imprisoned. The basic rights of United States citizens cannot be deprived due to age: the Constitution protects children as well as adults. The government did not give the children, nor their parents, any choice in the matter. All persons of Japanese ancestry were ordered incarcerated, including orphans and other children with non-Japanese guardians, foster parents, or adoptive parents. The military arbitrarily decided that a person with as little as 1/16 Japanese "blood" was condemned to be evicted and incarcerated. This, by the way, is twice as harsh as Hitler's formula for determining those of the Jewish faith.

19. WEREN'T YOU PLACED IN THESE CAMPS FOR YOUR OWN PROTECTION AGAINST MOB VIOLENCE?

In a case of mob violence, the law-breakers should be locked up--not the innocent intended victims. There was no basis for believing that the Japanese American population was in grave danger. There were just 28 isolated cases of assault against Japanese Americans on the West Coast during the first months of the war, and only one was committed by a white person. The general public may have been prejudiced, but they were law-abiding people. Any small need for security could have been readily handled by the local police and sheriff departments. The physical arrangements of the camps prove that the purpose was detention--not protection. Despite being in the middle of isolated deserts with no others around, the camps were surrounded by barbed wire fences with the tops tilted inward to keep the people in; the guards in the watchtowers had their weapons pointed into the camps; and the searchlights were directed inside the camps.

20. WEREN'T THESE CAMPS JUST RELOCATIONS CENTERS TO GIVE YOU TEMPORARY SHELTER UNTIL YOU COULD FIND NEW HOMES? WEREN'T YOU NOT ONLY FREE TO LEAVE, BUT ENCOURAGED TO DO SO?

Detainees were explicitly prohibited from leaving under Civilian Restrictive Order #1 and Public Proclamation #8 issued by General John L. DeWitt (Commander of the Western Defense Command), and Public Proclamation WD-1 issued by Secretary of War Henry L. Stimson. Anyone leaving without permission was shot, as evidenced by the eight inmates killed by guards. Another illustration of the fact that people were confined against their wills is

Mitsuye Endo's case. Upon finding herself involuntarily detained, she petitioned for a writ of habeas corpus in July 1942, but her plea for release was denied by the federal courts for almost three years. Temporary work of harvesting crops or education furloughs under strict parole conditions were granted to approximately 33% of the detainees at one time or another, but the majority of detainees were not actually "free" and "encouraged" to leave until after January 1945 when the camps began to close down.

21. DIDN'T SOME GOOD COME OUT OF THE EXPERIENCE, LIKE COLLEGE EDUCATIONS IN THE EAST, DISPERSAL FROM SEGREGATED NEIGHBORHOODS, AND BETTER ACCEPTANCE?

The question begs the issue and is devious. It is like suggesting that some good came out of the Nazi holocaust because the State of Israel was created afterward, or that slavery was good because Africans came to the United States. Any tragedy or disaster might inadvertently result in some benefits, but the basic issues must not thereby be evaded. Students should not have been forcibly removed from the colleges of their choice on the West Coast; people should not have been evicted from their homes, no matter how segregated the neighborhood; and false imprisonment should not be a prerequisite for acceptance. The American way is not to attempt to justify a wrong on the bases of some ends gained.

22. CONSIDERING ALL THE PRESENT PROBLEMS WHICH NEED TO BE WORKED ON, ISN'T IT BETTER TO FORGIVE AND FORGET THE PAST AND CONCENTRATE ON THE PRESENT AND FUTURE?

Much of the present problems affecting our youth and elderly are the direct result of injustices suffered in the past. We are inextricably linked to all that has happened before, and cannot forget unresolved grievances. As long as we have not received personal redress, our reputations are tainted, and unfortunately, many Americans still believe that we were disloyal and that the government was justified in its actions.

23. HOW WAS THE FIGURE OF \$25,000 DETERMINED?

It was felt that if we were to seek redress at all from the United States Government, the amount should be more than token; it should be a meaningful and significant amount to have preventative impact in the future. However, it should be kept in mind that our concern is constitutional rather than monetary.

The \$25,000 figure is the bare minimum due based on the following estimates:

	<u>Total (120,000 persons)</u>	<u>Per Individual</u>
Uncompensated property loss (\$538 million less \$38 million)	\$500,000,000	\$4,167
False eviction and false imprisonment for an average of 3 years (\$10,000 + \$10 per day)	2,514,000,000	20,950
Loss of income (based on average pre-1942 income)	435,000,000	3,625

Defamation of Character	--	--
Injury, illness, and death due to government action	--	--
Psychological, emotional, and cultural damage	--	--
Interest	--	--
Inflation correction	--	--
	\$3,449,000,000	\$28,742

Without even counting the last five categories, we are already over \$28,000!

24. AREN'T YOU BEING MATERIALISTIC AND GREEDY? WHAT HAPPENED TO THE PRIDE OF THE JAPANESE PEOPLE?

We are only asking for partial compensation for actual losses. Considering the huge amount of losses, no one will make a profit. We ask for no more, and undoubtedly a great deal less, than what any other American would demand under similar circumstances. Reluctance to seek what is due constitutes false pride. True pride requires a full redress of justified grievances.

25. ISN'T IT TRUE THAT MONEY CANNOT RESTORE LOST FREEDOM? BY PLACING A PRICE TAG ON FREEDOM, AREN'T YOU CHEAPENING WHAT IS PRICELESS?

The basis of American jurisprudence is founded upon the principle of monetary redress for lost freedom. Because freedom is considered so precious, false imprisonment has been compensated with large sums of money: for example, a Washington, D.C. court recently awarded \$10,000 per person in damages to the 1,318 Vietnam peace demonstrators for just two to three days of false imprisonment in 1971. Refusing to arrive at an estimate is a functional equivalent of assessing the damages at zero.

26. VICTIMS OF NAZI PERSECUTION ARE RECEIVING COMPENSATION, ARE THEY NOT?

The United States Government was instrumental in pressuring West Germany to pay restitutions. West Germany has paid to date \$25 billion and is yet to pay another \$20 billion. Furthermore, the United States is urging Poland, the poorest of the East bloc nations, to pay a similar type of restitution to Jews for their experiences in Polish camps during WWII.

27. JAPANESE AMERICANS HAVE A HIGH INCOME, SO DO YOU REALLY NEED THE MONEY?

Present average income is not relevant to the issue. Our case is not based on need, and we are not asking for welfare. Right to just compensation for wrongs inflicted does not depend upon whether the victim happens to be rich or poor.

28. WOULD YOU BE SATISFIED WITH AN OFFICIAL STATEMENT ADMITTING ERROR AND TENDERING AN APOLOGY?

We have already secured such statements many times over. Each time one of the bills for partial redress passed, there were admissions of error and expressions of regret: in 1948 when the property loss claims bill was passed, in 1971 when the Emergency Detention Act was repealed, in 1972 when the Social Security retirement credit bill was passed, in 1976 when Executive Order 9066 was rescinded, and in 1978 when the federal employees' retirement credit bill was enacted. What we need now is tangible compensation. The amount needs to be sufficient enough in order to leave a lasting impression on the government that constitutional rights cannot be violated so cheaply. Also, we need to find some means of rectifying the Supreme Court decisions in the Hirabayashi, Yasui, Korematsu and Endo cases.

29. WHY SHOULD WE HAVE TO PAY FOR THE WRONG COMMITTED BY OUR PARENTS' GENERATION? WE HAD NOTHING TO DO WITH INCARCERATING JAPANESE AMERICANS?

We must remember that "we" also includes Americans of Japanese ancestry. As citizens of America, all of us are responsible for the acts of our government. As a nation and as individuals, we are the products of the past. As citizens, we inherit the responsibilities, debts, etc., as well as the benefits, passed on to us by our ancestors.

30. WOULDN'T IT BE BETTER TO FUND COMMUNITY PROJECTS THAN TO GIVE THE MONEY TO INDIVIDUALS WHO WILL SQUANDER IT IN A SHORT TIME?

Such a concept for a lasting trust fund is already incorporated in the redress proposal. More importantly, we must remember that it was individuals who suffered, and each individual has a right to redress. We cannot legitimately take that right away. Individuals may donate their share to a community trust fund, but that choice has to be left to each individual. We are not limiting ourselves to one or the other--we are working for both individual and community trust fund payments.

31. WHY SHOULD THOSE WHO WERE CHILDREN AT THE TIME RECEIVE REDRESS?

Children's constitutional rights were violated, too. Children have a right to redress for false imprisonment, defamation of character, and emotional damage. Children were burdened with the life-long stigma of their birth certificates or school records indicating they spent their childhood in captivity. One part of an entire generation of Japanese Americans spent its most formative years in prison camps and grew up with the stigma of having been prisoners in their own country. In the camps, family structures disintegrated; children were deprived of normal parental nurturing and guidance; children grew up without a sense of security usually provided by parents. The schools were sub-standard; and the government stripped children of their self-identity by prohibiting or discouraging Japanese language, religion, culture, and sports.

32. WHY SHOULD HEIRS RECEIVE PAYMENT? IF YOU INCLUDE HEIRS, WOULD NOT THAT SET A PRECEDENT FOR OTHERS, LIKE BLACKS AND NATIVE AMERICANS, TO MAKE CLAIMS FOR ANCESTRAL GRIEVANCES?

The government is not relieved of the responsibility of making amends just because the victim has died. Children and family members of detainees suffered the consequences of lost property, lost income, lost health, ruined reputations, and psychological damage long after the camps closed. No other group of American citizens suffered such a massive denial of constitutional rights in existence at the time. Ours is a unique case in the constitutional history of this country. Blacks were brought here under a free enterprise system (i.e., not by government order), and Native Americans suffered a series of broken treaties between nations. This is not to say that the Blacks and Native Americans did not suffer immensely, but that only in the case of the eviction and incarceration of Japanese Americans was there a total abrogation of constitutional guarantees inflicted against a single group of citizens solely on the basis of race.

Damn! These Japs!

what about slavery more than abrogation of human rights in the context of a violation of rights in the context of the most inhumane sense

Stupid racist Japs!

Their myopic mind

What's wrong with these JACLers!

33. AREN'T THE NATIVE AMERICANS, BLACK AMERICANS, MEXICAN AMERICANS, AND CHINESE AMERICANS AT LEAST EQUALLY DESERVING OF REDRESS?

We are not in a competition with other groups who have legitimate claims for redress. Each group must pursue its own goals, but we will not get trapped into a divide and conquer situation.

34. WEREN'T THERE NUMEROUS DISLOYAL PEOPLE, LIKE THOSE WHO REFUSED THE LOYALTY OATH, RESISTED THE DRAFT, RENOUNCED THEIR CITIZENSHIP, AND EXPATRIATED TO JAPAN? WHY SHOULD THEY RECEIVE REDRESS?

There were very good legal, moral, and psychological reasons for resisting the government. Each act of resistance was a protest against injustice. The loyalty oath was imposed after they had been imprisoned for nearly a year; the draft was instituted while they and their families were still incarcerated; and American citizenship proved to be worthless. Without detracting from the magnificent war record of Japanese Americans in WWII, in the long-run, those who resisted may also have been the true American patriots because they took their constitutional rights seriously and fought to uphold the Constitution. The government later recognized the mitigating circumstances surrounding these cases, and granted full pardons to the draft resisters and restored citizenship to the renunciants. People responded to the injustices in different ways, and it would be inappropriate to pass judgement on loyalty.

35. WON'T YOUR CAMPAIGN CAUSE A WHITE BACKLASH AND ERODE THE GAINS YOU HAVE ALREADY MADE? WON'T YOU PROVOKE RESENTMENT AND REKINDLE RACISM THAT NO LONGER EXISTS?

If racism no longer exists, we have nothing to worry about. But if racism is merely comparatively dormant or can be rekindled, we need to work for redress. It is our duty, as first-class citizens, to fight for our just due. If we make the historical facts widely known, we are confident that the general public will be

supportive. But if there is a backlash, it is better to confront the problem directly and deal with it forthwith.

36. HOW MUCH SUPPORT DO YOU THINK YOU'LL GET FROM THE AMERICAN PUBLIC?

We fully expect some bitter opposition. We believe, however, that there will be much more support than many Japanese Americans now believe. Americans are not afraid to admit to the mistakes of their country.

37. IS THE REDRESS MOVEMENT BEING LED BY YOUNG RADICALS WHO WERE NOT EVEN BORN AT THE TIME?

Nearly all of the people active in the campaign are middle-aged or older persons who experienced the eviction and incarceration in 1942-46.

38. WHO DO YOU REPRESENT? AREN'T THERE MANY JAPANESE AMERICANS WHO OPPOSE REDRESS?

Based on five separate community surveys conducted in Northern California, Southern California, Pacific Northwest, Midwest, and East Coast areas, we probably represent the views of the vast majority of Japanese Americans. Some form of redress was favored by 94% of the respondents; and direct payment to individuals was desired by 83%. The opinion of the majority who disagree with redress are to be respected. We do not seek to impose redress on those who do not wish payment; such persons may decline payment.

39. WHAT DO YOU THINK OF SENATOR S.I. HAYAKAWA'S VIEWS ON REDRESS?

Hayakawa has no understanding of the Japanese American experience. During World War II, he was a Canadian citizen living in Chicago, and was not incarcerated. Had he remained in Vancouver, B.C. where he was born, the Canadian government would have incarcerated him along with all the other Japanese Canadians. Hayakawa did not experience the travails of the expulsion and incarceration, and his views on redress reflect the fact that he has not had much contact or empathy with the Japanese American community.

40. IF YOU FAIL TO OBTAIN REDRESS, WILL THIS CAMPAIGN HAVE BEEN A TOTAL FAILURE?

No, because the ultimate principle of the redress campaign is to help insure that what we experienced in 1942 does not ever again happen to any other group of people in this country. Consequently, one of the real objectives of the campaign is to educate the American public of our experiences and thereby fortify the principles of the Bill of Rights and the Constitution.