

C O P Y

JAPANESE AMERICAN CITIZENS LEAGUE  
OFFICE OF THE NATIONAL SECRETARY  
2031 Bush Street  
San Francisco, California

Bulletin 142

April 7, 1942

RE: TEST CASES

The Min Yasui case in Portland, Oregon, is gaining considerable attention. The facts seem to indicate that one Minoru Yasui, a Nisei attorney who worked for the Japanese consulate in Chicago as late as last December 7th, registered with the State Department as a propaganda agent for a foreign government, and a reserve lieutenant in the United States Army, deliberately violated the curfew regulations and surrendered to the police with the declared intentions of legally determining the right of the military authorities to impose such restrictions upon American citizens of Japanese extraction. Yasui contends that such actions are discriminatory and unconstitutional. At the present time, he is "out" on bail and is said to be circulating a petition among the Portland chapter members demanding that the National Organization take some definite stand on the question of the constitutional rights of the Japanese Americans.

In regard to this particular case, as well as all other test cases of this nature, without any references being made to those individuals who are serving as the subjects for judicial review, this office releases the following statement:

National Headquarters is unalterably opposed to test cases to determine the constitutionality of military regulations at this time. We have reached this decision unanimously after examining all the facts in light of our national policy of: "the greatest good for the greatest number."

We recognize that self-styled martyrs who are willing to be jailed in order that they might fight for the rights of citizenship, as many of them allege, capture the headlines and the imaginations of many more persons than our seemingly indifferent stand. We realize that many Japanese and others who are interested in our welfare have condemned the JACL for its apparent lackadaisical attitude on the matter of defending the rights and privileges of American citizens with Japanese features.

But, we submit that a careful examination of all the facts with the view of doing the greatest good for the greatest number will justify our position on such matters as these.

In the first place, our primary consideration as good Americans is the total war effort. Individuals and groups are not important when the life of the nation is at stake. We have been asked to evacuate from the Pacific Coast as a military measure designed to strengthen national defense. We will cooperate in the war effort.

Secondly, as a national organization and as individuals, we have pledged

our whole-hearted cooperation to the President, without qualifications or reservations, in the winning of the war. We will not violate our pledges.

Thirdly, we have continually cooperated with the Federal Government on all regulations and orders in the hope that our cooperation would inspire a reciprocal cooperation on their part. Our hopes have been justified. We will continue our policy of cooperation.

Fourthly, the gracious acceptance of all army regulations and orders and cooperating with them to the fullest extent is our contribution to the national defense effort. It is the sacrifice which we have been called upon to make. Although our contribution may seem greater than most, it still remains that it must be our share in the program. We will make our contributions to our nation.

Fifthly, public opinion is opposed to any measure which seems to be directed against the Army and its authority. Should we challenge their right to pass such regulations as the five-mile travel limit and the curfew restrictions, we might be damned as fifth columnists who are attempting to sabotage the military plans and to embarrass the government at a time when a united front is essential." We will not take any action which might be construed as an organized effort to sabotage Army measures which are designed for the public safety.

Sixthly, even assuming that we should win a test case, which we doubt, we may be in the same position as the nation which wins a war and loses the peace." It will take so long for a case of this nature to run the gamut of the courts from the lowest to the highest that we will, in all probability, be evacuated out of this area before it is finally passed upon by the Supreme Court. Even though we should win a legal victory, if the people at large resented our activities, it might have been better either to have lost or not to have attempted a contest. Too, if we should lose the case, which appears likely at this time, we have no further recourse; the law has been settled and cannot be reversed. It would appear more sensible if all legal actions of this nature were left until after the war when public sentiment may have changed and suits might be initiated to recover for damages suffered. Even this latter stop is a moot question at this time. We do not intend to attempt to win a case and lose good will.

Seventhly, attempts to slow up or to question military dictates may result in irritating those in charge so that they may retaliate by instituting more and stricter regulations." Whatever may be said against the procedure followed by the Army in conducting this evacuation is one thing, but no one can gainsay the statement that they have been tolerant, fair, and as reasonable as possible in their treatment of this problem. We do not intend to force them to change their attitudes on this matter.

Eighthly, if our recollection serves correctly, Attorney General Biddle, one of the greatest defenders of civil rights in this country, declared that there was little chance that the courts would go beyond the military should any person desire to challenge the legality of the President's proclamation which gave the Secretary of War and his military commanders the power to designate zones in which any and all persons might be excluded and to facilitate the removal of the undesirable persons by adopting whatever measures were deemed necessary and proper. We trust that the opinion of the Attorney General represents the majority of the jurists' opinions on this subject.

Ninthly, the American Civil Liberties Union, after polling its members as to whether they should make a test case of the Army orders for evacuation, decided against it. When the one group of all groups which has most vigorously and consistently battled against great odds for civil liberties in this nation concedes that a court test of legality should not be attempted, we are ready to accept their verdict. If the general orders should not be challenged, then it seems only logical that the supplementary orders necessary to effect the evacuation should also not be contested. We are not disposed to question the wisdom of the American Civil Liberties Union on questions of this kind.

Tenthly, unfavorable publicity often results from attempting such test cases. The Yasui case is one in point. Editorial comments as well as news reports did not concentrate their attention on the question of the constitutionality of the regulations involved, but rather featured the fact that the subject for the test was a former paid propagandist for the Japanese government. Moreover, from letters sent to the various public opinion sections of the newspapers, we can gather that the majority of those who wrote in were very vicious in their condemnation not only of Yasui but also of all Japanese. This incident just gave them one more excuse for publicly branding us as treacherous and dangerous. One letter, printed in the San Francisco Examiner, for example, declared that "All Japanese Americans should be discharged from the Army because Yasui, a reserve lieutenant, had deliberately violated regulations." The letter went on to say that "Yasui took advantage of an American education, going to the University of Oregon, and paid that back with the usual Japanese treachery." Because our motives are too often misunderstood and unfavorable publicity often results which is injurious not only to the person so involved but also to all the Japanese in America, we believe that test cases should not be made. We do not intend to create any unnecessary excuses for denouncing the Japanese as disloyal and dangerous.

Lastly, "we are not giving up our rights as citizens by cooperating with the government in the evacuation program. We may be temporarily suspending or sacrificing some of our privileges and rights of citizenship in the greater aim of protecting them for all time to come and to defeat those powers which seek to destroy them." When the war is won, we are confident that all our rights and privileges will be returned to us a hundredfold because we cooperated in the winning of the war. We will consistently adhere to this announced principle of cooperation.

In times like these, let us remember that it is much easier to be a martyr than it is to be a quiet, self-suffering good citizen who is vitally interested in the winning of the war. To win this time will require sacrifices beyond those demanded in the First World War, and the sacrifices which we are called upon to make are even greater than those demanded of the majority. Because our sacrifice is greater, let us trust that our rewards in that greater America which is to come will be that much the greater.

Fraternally,

/s/ Mike Masaoka  
National Secretary and Field Executive

Copied from originals in The Bancroft Library for reference only. Copies may not be deposited in other libraries or institutions without express permission. Please return all copies to The Bancroft Library upon completion of your research.