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REPORT OF SOLICITOR'S OFFICE

January - March 1943

The Solicitor's office is primarily a service division, working for and with all other divisions of the War Relocation Authority on nearly all problems which arise in the Authority. This is true both in the Washington office and in the field. While there are some types of work which are peculiarly within the province of the legal division, these usually have direct impact on work being done or to be done in other divisions, or on policies to be pursued by the Authority. This being true, a report of the Solicitor's office must necessarily, to a large extent, cover ground which is covered also by reports of other divisions, though in general it will emphasize different aspects of these activities than are emphasized by other divisions. By the same token, a report of the Solicitor's office will not evidence to any great extent a program or series of objectives separate from those of the War Relocation Authority as a whole. The objectives of the Solicitor's office are substantially the same as those of the legal division of any organization, public or private, i. e., to assist the administrative staff to carry through its program with a minimum of legal obstructions and a maximum of efficient cooperation from law-making and law-enforcing agencies, as well as to handle any specific legal problems

which may arise in the course of the program. As a part of these objectives, it is, of course, necessary for a legal division to keep abreast of developments of policy and administrative planning so as to foresee possible legal entanglements and at the same time to assist in framing Administrative Instructions in such fashion that legal entanglements will as far as possible be avoided.

During this quarter, the Solicitor's office for the first time came near to achieving the organization of personnel that has been planned for it. One appointed attorney was assigned to and actively engaged in the work of project attorney at each of the ten projects in the field and two attorneys were assigned to the work of the Evacuee Property Office in San Francisco. At each of the ten projects, the appointed attorneys were assisted by one or more evacuee attorneys. At the Washington office, the legal staff consisted of the Solicitor, two Assistant Solicitors, and seven other appointed attorneys. No evacuee attorneys were used in the Washington office. Close and constant contact was maintained between the Washington staff and the attorneys in the field. This contact will be discussed later in this report.

Work of the Project Attorneys. The work of each project attorney's office represents in miniature the work of the Solicitor's office as a whole. The project attorney's principal task is to advise and assist the Project Director and his administrative staff, at their request, in

handling the multitude of problems which arise in the course of operation of any relocation center. Almost any of these problems may involve legal considerations. Such advice and assistance frequently calls for the preparation of legal documents, such as contracts, easements, memoranda of understanding, and the like, as well as opinions on legal subjects. The project attorney is called upon to interpret Administrative Instructions for the benefit of the staff members and of evacuees, and to correlate related instructions for them. He is required to maintain useful contacts with outside agencies, including State and Federal courts, prosecuting officials, the executive and legislative departments of State government and county and municipal officials at and near the place where the center is located, the Federal Bureau of Investigation and other Federal agencies, and many others. These contacts are essential not only for the maintenance of good public relations generally but also in order to facilitate the conduct of business which the Authority must from time to time engage in with these other agencies. For the sake of maintaining good relations with nearby communities, the project attorney, like other principal members of the administrative staff, must and does often appear before civic groups and other local organizations interested in the program of the War Relocation Authority.

The assistance which the project attorney renders to particular

divisions and sections of the administrative organization is typified by his relationship to the community enterprises. This relationship, as well as the amount of work done and the stage to which work has progressed, varies among the projects, but work done during the past quarter at many of the projects includes the preparation of declarations of trust for the preliminary organization of the enterprises, the preparation of articles of incorporation, by-laws and other instruments necessary to the incorporation of the enterprises as permanently organized cooperative associations, the preparation of transfer agreements whereby the assets and liabilities of the enterprises may be transmitted from the trust or other preliminary organization to the permanent cooperative association, the preparation of operating agreements setting out the obligations of the privately organized community enterprises and the War Relocation Authority toward each other, advice on contracts and other private liabilities entered into or claimed against the enterprises, advice on tax liabilities of the enterprises, including income taxes both State and Federal, social security taxes both State and Federal, admissions taxes, State property taxes and many others, compliance with foreign funds control regulations as they related to "blocked nationals" among the evacuees operating the enterprises, and a score of other related problems. The project attorneys

were aided in dealing with these problems by opinions prepared in the Washington office on those of the problems which were common to all the centers as well as by advice dealing specifically with problems peculiar to any particular center.

Nearly all of the project attorneys assisted the Project Directors with numerous problems growing out of the Army registration and with requests for repatriation and expatriation and declination thereof. This assistance included advice on the rights of evacuees in connection with these matters, such advice being given both to the evacuees themselves and to the administrative staff.

The project attorneys have all worked closely with the community government organizations at each of the relocation centers. Usually they have attended all principal meetings of governmental groups at the centers. They have assisted Organization Commissions in the drafting of charters, working particularly in integration of these charters with Administrative Instructions on community government. They have assisted the community councils in all their work and particularly in the drafting of regulations and the revision thereof. They have worked with the Judicial Commissions and project directors in the trial of law and order cases at the centers and they have conducted hearings and advised the Project Directors in the conduct of hearings on cases arising out of the Army registration program.

Until the establishment late in the quarter of separate evacuee property sections at the relocation centers, most of the evacuee property work was handled in the project attorneys' offices and when property officers were appointed the project attorneys and evacuee members of their staffs assisted the property officers in getting established and continued to render advice and assistance on the legal aspects which were present in a large proportion of evacuee property problems. Assistance was likewise given to evacuees on matters involving their personal rights, including professional licenses, domestic problems such as divorces, annulments, adoptions, probate matters, insurance, and the like, and rights inherent in citizenship. Hundreds of the evacuees at each of the projects were aided in preparing their income tax returns.

Evacuee attorneys on the staffs of the project attorneys' offices did much of the routine work herein described. Interviews with several hundred evacuees have to be held each week at each project attorney's office and the burden of this mass of interviews has in the first instance fallen generally upon the evacuee attorneys, who in turn refer to the project attorney cases requiring his personal attention. Many of the better evacuee attorneys made plans during the quarter for relocation, and practically every project attorney therefore faces the prospect of losing soon the assistance of invaluable members of his

staff. This fact presents one of the most difficult administrative problems now facing the Solicitor's office.

Evacuee Property Office in San Francisco. The two attorneys assigned to the Evacuee Property Office in San Francisco have performed, on a larger scale, the same work in connection with the legal rights of evacuees as is performed by the several project attorneys. During the quarter they have continued to advise the Chief Evacuee Property Officer and his assistants on the legal aspects of the many evacuee property problems, some of which involve large amounts and complicated legal questions, which were handled by the San Francisco office. In this connection, they have, along with the Evacuee Property Officers, interviewed many persons with whom evacuee property matters were pending. They have assisted in the employment of local attorneys to represent evacuees when such employment appeared necessary and have assisted the employed attorneys to deal with the cases involved. They have advised project attorneys on the legal aspects of specific evacuee property problems arising at the projects and have assisted the Washington office in the preparation of Administrative Instructions on the handling of evacuee property problems generally.

Apart from these regular duties, the members of the legal staff in the San Francisco office have also aided Project Directors in the holding of hearings at nearby relocation centers in law and order cases growing out of the Army registration program.

The Solicitor's office in Washington. Practically every problem of first importance which arose during the quarter in the Washington office of the War Relocation Authority has been dealt with at one stage or another by the Solicitor's office. All Administrative Instructions and comparable documents are reviewed by the office. New policies and plans for the implementation of current policies are reviewed by the Solicitor and his staff, in order to discover and eliminate legal difficulties which may be inherent in them and to assure their development on a sound legal basis.

As an example of this type of work done during the quarter, reference may be made to a lengthy memorandum on law and order problems in the centers, prepared by the Solicitor, and submitted by him to the principal administrative and legal officers of the War Relocation Authority. This memorandum helped the development of the Administrative Instructions on organization of police services at the relocation centers, rules governing the making of arrests by War Relocation Authority police officers, the definition, trial and punishment of offenses against law and order at relocation centers, and the removal from relocation centers of aggravated and incorrigible trouble-makers.

The Solicitor's office has been constantly busy on work connected with the relocation program under which evacuees are being encouraged to secure useful employment outside the centers. In this connection,

the office has aided in the drafting of Administrative Instructions and forms to be used in the program, in the review of doubtful cases in which it was difficult to determine whether applicants would be dangerous to internal security if allowed to go out on indefinite leave, and in the formulation of permanent policies and rules for the handling of such doubtful cases.

Other typical instances of assistance given to administrative officers during the quarter include advice to the Community Enterprises section on the organization of evacuee trusts and corporations at the centers, advice on legal phases of the operation of industrial enterprises at the centers, advice to fiscal officers of the War Relocation Authority on interpretation of the appropriation law, drafting of the new appropriation law, applicability to the program of various decisions of the Comptroller General and the significance of other laws bearing on the expenditure of War Relocation Authority funds and the funds of other governmental agencies collaborating with the program of the War Relocation Authority, and advice to the Employment Division on contractual arrangements to be made by evacuees for group and individual employment. The office has had occasion to interpret rulings governing the control of foreign funds and assets of "blocked nationals", to assist evacuees in securing the "unfreezing" of funds to which they, under the law, are entitled, and to render aid to the Foreign Funds Control Unit

of the Treasury Department in cases in which it was interested. Similar assistance has been given to all sections and divisions of the administrative organization.

The office has maintained close contact with the Department of Justice and the legal divisions of other departments and independent agencies of government with which the War Relocation Authority must and should collaborate, both in Washington and elsewhere. Cooperation has been sustained with agencies concerned with national defense, particularly in the interpretation and enforcement of laws designed to prevent espionage, sabotage, and other activities which would interfere with the war effort. Maintenance of similar good relationships with State agencies, particularly in respect to the exercise of legal jurisdiction over activities, persons and property on relocation areas, has been achieved largely through the efforts of project attorneys under the direction of the office in Washington.

The series of formal opinions dealing with matters of major legal significance in the program of the War Relocation Authority was continued during the quarter, as follows:

<u>Opinion Number</u>	<u>Subject</u>
44	Applicability of Federal admissions tax and State taxes to cooperatives furnishing recreational programs for the evacuees.
45	Applicability of Executive Order No. 8389, as amended, relating to the control of foreign funds, to transactions by or with the consumer enterprises.

<u>Opinion Number</u>	<u>Subject</u>
46	Rights of evacuees entering the armed forces to reemployment in positions which they held in private industry prior to evacuation.
47	Right of aliens to become stockholders, members or directors of cooperatives.
48	Liability of consumer enterprises for Federal and State social security taxes.
49	Authority of the War Relocation Authority to make available to private operators agricultural lands acquired by purchase when they are temporarily not needed by the Authority.
50	Arbitration at Granada Relocation Center.
51	Common-law marriages.
52	Divorce jurisdiction.
53	Applicability of Federal and State laws to slaughter and shipment of livestock and poultry raised on relocation areas.
54	Use of project employees in program for education and training of defense workers
55	Dual citizenship
56	Arbitration at Heart Mountain Relocation Center

Relation between Solicitor's Office in Washington and Field Offices. A system whereby each project attorney and the attorney in charge of the legal work at the Evacuee Property Office in San Francisco makes a detailed written report to the Solicitor each week and receives

a detailed reply thereto assures a close working relationship between the Washington office and the field offices. In these weekly reports, the project attorneys are required to indicate the principal activities in which their offices have engaged during the week, the legal problems presented therein and the conclusions arrived at, legal questions of major significance raised by administrative staff members and by evanees, and questions upon which the advice of the Washington office is desired. In the replies, the Solicitor undertakes to answer all questions asked, to pass upon the propriety of legal decisions rendered by the reporting attorney, to advise concerning new developments in the program of the War Relocation Authority and to suggest needed improvements in the procedures and objectives of the local offices. Project attorneys are encouraged to make these replies available to members of the administrative staff to whose work they related. Copies of all reports and replies are sent to all the project attorneys' offices and the San Francisco office so that each attorney is constantly advised of all major problems presented by all the project attorneys and all conclusions arrived at in respect thereto by the Solicitor's office in Washington. In addition, other correspondence is constantly carried on between the attorneys in the field and the Washington office with respect to matters requiring such immediate attention that they cannot be delayed until weekly reports and replies are sent. When the subject matter of this correspondence

has significance outside the project immediately concerned, copies are sent to all the field offices. In addition the Solicitor and his principal assistants occasionally make trips to the relocation centers to confer with the project attorneys and work with them for several days at a time and occasionally the project attorneys themselves are asked to come to the Washington office for short periods to renew their acquaintance with the personalities and procedures in this office. A member of the Washington office staff usually attends to the legal work at the project during such visits, thus furthering acquaintance by the members of this staff with the nature and character of work done at the project offices. This program was operative during the quarter covered by this report.

Status of Litigation. During the quarter, several cases involving the constitutionality of the evacuation program and inferentially the constitutionality of the program of the War Relocation Authority itself progressed substantially toward ultimate decision. Appeals from the decisions of Federal District Courts upholding the constitutionality of evacuation and curfew orders in criminal prosecutions against Fred T. Korematsu and Gordon K. Hirabayashi, and sustaining the conviction of Minoru Yasui on other grounds in a similar prosecution, were joined together for purposes of argument and decision before the Ninth Circuit Court of Appeals. Argument in these cases was heard on February 19,

1943. All seven judges of the Circuit Court of Appeals for the Ninth Circuit sat en banc for the hearing. The decision of the Court was announced on March 30 in the form of a certification to the United States Supreme Court of the questions deemed basic to determination of the issues in the cases. The Circuit Court of Appeals thus, without itself deciding the cases, endeavored to hasten their ultimate and authoritative determination.

On the same day on which the Court heard argument in the three cases just mentioned, it also heard argument in the case of Hogan v. King, in which an attempt had been made to compel the Registrar of Voters of San Francisco to strike from the election register the names of American citizens of Japanese ancestry on the ground that they were in fact not American citizens. The Federal District Court had dismissed the suit on the authority of United States v. Wong Kim Ark, 169 U. S. 649. The Circuit Court of Appeals summarily affirmed that dismissal.

During the quarter, Counsel for Ernest Wakayama and Toki Wakayama concluded to dismiss writs of habeas corpus sought by them to secure their release from the Manzanar Relocation Center. Had these cases been brought to trial, they would have put directly in issue the validity of the War Relocation Authority's program insofar as it involves detention of the evacuees against their will. One case of this character

remains on the docket of a Federal District Court in California. That is the case of Miss Mitsuye Endo who by writ of habeas corpus seeks to obtain release from the Tule Lake Relocation Center.

Advice has been given by the Solicitor's office to parties involved in several other cases pending in State and Federal courts during the quarter. None of these, however, involved directly the validity of the program of the War Relocation Authority.

Solicitor