1943, nos. 1-19

WAR RELOCATION AUTHORITY

Office of the Solicitor

WASHINGTON

FEB 9 - 1943

Solicitor's Memorandum No. 1 (1943)

Subject: Weekly Reports

The weekly reports submitted by the Project Attorneys are serving an invaluable purpose. They give precisely the kind of information that we need in this office, and I hope that our replies are equally useful. I should like to suggest one change in procedure, however.

The weekly reports frequently present problems concerning which the immediate advice of this office is requested. Because of the length of these reports and the amount of time it takes to digest their contents and prepare replies, the replies are frequently delayed. An attempt is made to read the reports and answer promptly requests for immediate advice, but there is always the chance that such requests may be overlooked.

I therefore suggest that all problems requiring immediate advice from this office be made the subject of a separate letter that discusses nothing else. These individual letters can then be treated as specific assignments and the replies can be expedited.

Philip M. Glick

Philip M. Glick
Solicitor

WAR RELOCATION AUTHORITY

Office of the Solicitor

WASHINGTON

FEB 9 - 1943

SOLICITOR'S MEMORANDUM NO. 2 (1943)

I wish that each Project Attorney would be alert to discover legislative bills that may be introduced in the legislature of the State in which his project is located, that relate in any way to the program of WRA. As soon as you learn of such a bill I shall appreciate your trying to get two or more copies, and sending them to me, together with such information concerning the background of the bill and its prospects as you may be able readily to secure.

Philip M. Glick

Solicitor

WAR RELOCATION AUTHORITY

Office of the Solicitor

WASHINGTON

MAR 6 1943

SOLICITOR'S MEMORANDUM NO . 3 (1943)

Subject: Successors to Regional Attorneys

The recent administrative reorganization in WRA, in doing away with the regional offices, also terminated the offices of the three Regional Attorneys. The Project Attorneys now report directly to the Solicitor instead of, as formerly, to the Regional Attorneys.

We have established two positions in the Washington office to assist me in supervising and directing the work of the Project Attorneys. Mr. Edwin E. Ferguson, formerly Regional Attorney at San Francisco, has been appointed to fill one of these positions and will assist in supervising the work of the Project Attorneys at Manzanar, Tule Lake, Gila River, Colorado River, and Minidoka relocation centers. Mr. Robert A. Leflar, formerly Regional Attorney at Little Rock, has been appointed to fill the other position and will assist in supervising the work of the Project Attorneys at Heart Mountain, Granada, Central Utah, Rohwer, and Jerome relocation centers.

Mr. Ulys A. Lovell of Arkansas has been appointed Project Attorney of the Jerome Relocation Center, succeeding Mr. Ieflar.

We have four principal methods in mind for maintaining close contact between the Project Attorneys and the Washington office. The first, of course, is our system of weekly reports and replies. The second is our plan to have each Project Attorney come to Washington for approximately 3 weeks, with an Acting Project Attorney holding his post in his absence. The third contemplates that Mr. Sigler, Mr. Leflar, Mr. Ferguson, and I will make frequent trips to the projects to confer with the Project Attorneys and work with them for several days at a time. The fourth measure we have in mind is one that may present some difficulties. If I can clear away all the difficulties, I shall write you further about that soon. I hope to be able to arrange a conference of all Project Attorneys with members of the Washington and San Francisco staffs at some central point for a general survey of our common problems.

Solicitor

WAR RELOCATION AUTHORITY

Office of the Solicitor

WASHINGTON

APR 1 1943

SOLICITOR'S MEMORANDUM NO. 4 (1943)

Subject: Law Libraries at the Projects

I gather from some recent reports that some Project Attorneys feel that the law books available to them at the centers are hopelessly inadequate.

Paragraph 17 of Solicitor's Memorandum No. 10 (1942) Revised, issued December 2, 1942, authorizes each Project Attorney to purchase, through the procurement or supply officer of the relocation center, the 1940 edition of the United States Code, with Supplements, the Code of the State in which the relocation center is located, and, where necessary, the Codes of the States from which a substantial number of the evacuees in the relocation center have come. The paragraph goes on to provide that other law books shall not be purchased without the prior approval of the Solicitor.

Supplement No. 1 to Solicitor's Memorandum No. 10 (1942) Revised, issued January 26, 1943, authorized the purchase of a form book, although several Project Attorneys had already acquired form books for their use.

As you know, we have been operating on the general assumption that the Project Attorneys, under the conditions of work that prevail at the centers, will be compelled to shoot from the hip and will not have time to engage in extensive legal research or drafting. With the exception, therefore, of certain instrument-drafting assignments which the Project Attorneys have retained because the drafting could not be done except in close consultation with administrative officers at the projects, problems requiring more than a rather quick check of statutes or regulations the Project Attorneys have been referring to Washington. Thus, two or three Project Attorneys have issued four or five opinions each, and the rest have issued none. The Washington office attempts to issue general research memoranda and opinions from time to time on problems that concern the Project Attorneys, but on which they have no time to do the necessary research.

It is obviously not good management for us to build up expensive law libraries at the centers since the centers are not places of permanent duration. On the other hand, I don't want the lack of law books to interfere with your work unduly. You need not hesitate to ask for approval for the purchase of such additional

books as you expect to use with reasonable frequency, where the cost bears a reasonable relationship to its value to you. I have so far not disapproved a single request for purchase of law books except that in one case I suggested reliance upon Lasser's income tax pamphlet in lieu of a much more expensive tax law service. I believe the Project Attorney involved has since indicated that he concurs in the wisdom of that decision.

If the purchase of additional law books is important to the effectiveness of your work, please advise me. I shall appreciate your individually giving me your reactions and suggestions on this problem. Please send copies of your replies to the other Project Attorneys and to Messrs. Walk and Bernhard.

Philip M. Glick

Solicitor

WAR RELOCATION AUTHORITY

Office of the Solicitor

WASHINGTON

MAY 17 1943

SOLICITOR'S MEMORANDUM NO. 5 (1943)

Subject: The Preparation of Quarterly and Annual Reports for the Office of the Solicitor

I have asked Mr. Robert A. Leflar to take responsibility for the planning and preparation of quarterly and annual reports on the work of this office.

I should like those reports to present an adequate picture of the work of this office -- the problems faced, the solutions devised, the objectives aimed at, the successes and failures.

I know quite well that quarterly and annual reports are frequently regarded as formal nuisances to be disposed of with no more attention than is unavoidable. I dissent from that attitude. I believe these reports give the office a special opportunity to advance the objectives of the office, to inform and clarify thinking, and to improve the quality of public administration. Mr. Leflar will approach his task with this attitude.

He needs the help of all of us to do that job right. I wish that each member of the Washington office would make special note of things that come to his attention that are relevant material for the reports, and would either talk to Bob Leflar about them, or give him a suitable memorandum. In the case of the Project Attorneys, the weekly reports and replies will provide the essential basis for these reports. In addition, I wish each Project Attorney would call specially to our attention ideas, developments, trends, or items that have special value for the reports.

Philip M. Glick

Solicitor

#30.100
Sol. Memo

MAY 27 1943

WAR RELOCATION AUTHORITY
Office of the Solicitor
WASHINGTON

March 19, 1943

To Yasui
Yasui
Mr Orai
Yoriko

To Mr. Orai
Legal Div.
Blocks 2 3
Please return
for filing.

SOLICITOR'S MEMORANDUM NO. 6 (1943)

Subject: Air Mail Letters

Under Solicitor's Memorandum No. 10 (1942), Revised, the project attorneys are asked to make weekly reports to which are attached, along with one carbon copy of the report itself, copies of all written work issued by the project attorney during the report period. Due to their urgency, these reports are ordinarily sent by air mail. This urgency is not always present as to all the attachments.

It is requested that hereafter the project attorneys send by air mail only the original copy of their reports, on thin paper, and that the attachments to this air mail letter be limited to documents specifically referred to in the report and others which should receive prompt review in the Solicitor's office. At the same time the duplicate copy of the report, along with other nonurgent attachments, should be sent to the Solicitor's office by ordinary mail. It is important to make certain that the material sent by ordinary mail be correctly and promptly routed to the Solicitor's office, therefore it should be addressed in the same manner as the air mail letter and mailed at the same time.

Philip M. Glick

Philip M. Glick
Solicitor

To Mr. Orai.
Since I shall prepare one more weekly report for May 31, will you address your reports to me for that date, following the above instructions as to paper? We have some legal size manfold and bond now. Please send to messenger, and I shall send some to you.
P.M.

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Heathrow

WAR RELOCATION AUTHORITY

Office of the Solicitor

WASHINGTON

JUN 14 1943

SOLICITOR'S MEMORANDUM No. 7 (1943)

Subject: Law Libraries at the Projects

I now have the replies of the Project Attorneys containing information and suggestions concerning the project law libraries, as requested in Solicitor's Memorandum No. 4, issued April 1, 1943.

A careful study of these replies indicates that the majority of the Project Attorneys are satisfied with their present library facilities and do not believe it expedient to build up more elaborate law libraries at the centers. Several of the Project Attorneys have access to library facilities in nearby towns, but a few of the projects are not so conveniently located. At these, there is need for better libraries at the centers.

I would like to commend all of the Project Attorneys for the care with which they have considered this problem and for their interest in conserving public funds. I realize that many of the Attorneys are put to considerable inconvenience in using nearby libraries and that good libraries at the projects would prevent this inconvenience, but they have still been able to approach the problem conservatively.

The experience of the various Project Attorneys indicates to me that there are some law books that are practical necessities. I have previously authorized each Project Attorney to purchase, through the procurement officer of the relocation center, the 1940 edition of the United States Code, with Supplements, the compilation of statutes of the State in which the relocation center is located and, where necessary, the compiled statutes of the States from which a substantial number of the evacuees in the relocation center have come. See Paragraph 17 of Solicitor's Memorandum No. 10 (1942) Revised, issued December 2, 1942. Also, in Supplement No. 1 to Solicitor's Memorandum No. 10 (1942) Revised, issued January 26, 1943, the purchase of a form book not to exceed $15.00 in cost was authorized.

The majority of the Project Attorneys believe that a better legal form book is needed. Each Project Attorney who is convinced that his present form book is inadequate, or who has not yet purchased a form book, is, therefore, hereby authorized to arrange for the purchase of a form book at a cost not in excess of $45.00. A form book either for the State in which the project is located or from which a majority of the evacuees have come may be found more desirable than a general legal form book. The purchase of both types

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WAR RELOCATION AUTHORITY

Office of the Solicitor

WASHINGTON

of legal form books is approved where the Project Attorney finds them necessary.

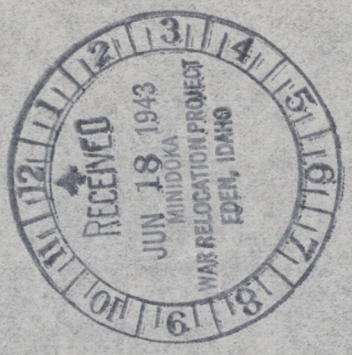
I have also noted some objection to the use of Lake's California Codes. Each Project Attorney stationed at a center at which a substantial number of the residents are Californians is authorized to arrange for the purchase of a second-hand set of Deering's California Codes at a cost not in excess of $100.00. If satisfactory used sets are not found to be available, the Project Attorney may write me requesting approval for the purchase of a new set.

Apart from these specific authorizations, if at any time the purchase of other law books becomes important to the effectiveness of your work, please do not hesitate to advise me of your needs.

Philip M. Glick

Philip M. Glick
Solicitor

HZCant:kf
6/11/43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Firestone

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WAR RELOCATION AUTHORITY

Office of the Solicitor

WASHINGTON

JUL 7 - 1943

SOLICITOR'S MEMORANDUM NO. 8 (1943)

Subject: Authority of Project Directors and Judicial Commissions to Impose Fines

I am attaching hereto, for your information, copies of the following documents:

1. My memorandum for the Director, dated June 16, briefly explaining Op.Sol. No. 66, Supplement No. 1 to Administrative Instruction No. 85, and Supplement No. 3 to Administrative Instruction No. 34.

2. Op. Sol. No. 66, which contains a reissue of page 2.

3. Administrative Instruction No. 85, Supplement No. 1, and Administrative Instruction No. 34, Supplement No. 3.

There has been some confusion in this field, and I believe that the attached documents should serve to clear up the subject.

Op. Sol. No. 66 was issued on June 5. On the second page of that opinion I concluded that if Evacuee Judicial Commissions were authorized to impose fines in disciplinary cases heard by them, the proceeds of the fines could be retained and spent for community purposes within the center. Page 2 of that opinion has since been recalled and a new page substituted for it. In the substitute page, I conclude that fines imposed and collected by the Evacuee Judicial Commission, like fines imposed and collected by the Project Director, probably need, as a matter of law, to be deposited in Miscellaneous Receipts and cannot be retained and spent within the center for community purposes.

The conclusion arrived at on reexamination is based on a belief that the Comptroller General will probably hold that fines so collected must be deposited in Miscellaneous Receipts. I believe personally, and have so believed from the beginning, that the Community Councils and Evacuee Judicial Commissions operating in the centers function in two capacities — (1) as local administrative agencies to whom the Director of WRA has delegated certain of his rule-making and disciplinary authority; (2) as de facto and de jure local governmental units that come into being

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by virtue of their being provided for in a charter or plan of government approved by the evacuees in a referendum held for that purpose.

On this theory moneys collected as fines by the Evacuee Judicial Commissions do not come into their hands solely in their capacity as administrative agencies exercising powers delegated to them by the Director, and therefore the moneys do not come into their hands "for the use of the United States" within the meaning of that phrase as used in the Miscellaneous Receipts statute.

After several recent discussions, however, the lawyers in the Washington office, with me included, have agreed that there is high probability that the Comptroller General will reject the view that the Evacuee Judicial Commissions and Community Councils operate in the second of the above mentioned capacities, or in any event will conclude that the moneys would not come into their hands but for their action in the capacity of administrative agencies operating under delegated power from the Director, and therefore that the moneys that come into their hands from the collection of such fines are moneys received "for the use of the United States".

To play safe, and inasmuch as there is not enough money involved to warrant our making a big issue of this, it has been decided to revise the second page of Op. Sol. No. 66 as indicated and to provide for deposit of the proceeds of fines in Miscellaneous Receipts. The Administrative Instructions provide accordingly.

Unfortunately, this necessitates also a change in Administrative Instruction No. 34 which has heretofore authorized Community Councils to impose certain license fees. The same reasoning would require such license fees to be deposited in the Federal Treasury and there would seem to be no motive for the Community Council to levy such license fees if the proceeds are not to be available for community purposes. Fortunately, no Community Council, I am informed, has yet exercised the power to impose license fees, and so no harm has been done by the earlier authority to impose license fees and spend the proceeds for community purposes.

Your comments on this whole set of problems are welcomed.

Philip M. Glick

Solicitor

Milton M. Dixon

#30,100

WAR RELOCATION AUTHORITY

Office of the Solicitor

WASHINGTON

JUL 8 - 1943

SOLICITOR'S MEMORANDUM NO. 9 (1943)

You will find attached hereto copies for your library of the opinions of the Supreme Court of the United States in Hirabayashi v. United States, and Yasui v. United States, and Korematsu v. United States. May I make a few comments:

1. The sweeping manner in which the Court sustained the constitutionality of curfew provides, of course, a great deal of the basis necessary for sustaining the constitutionality of evacuation. Many of the Court's decisions on particular points, such as the validity of Public 503 as against attack on delegation of legislative power and invalidity for indefiniteness, would seem to be final on the same questions when raised in an attack on the validity of evacuation. These decisions on specific points seem to me to cover, say, 90 percent of the ground that needs to be covered to sustain evacuation. The Court has now decided that Public 503 does not improperly delegate legislative power, is not void for indefiniteness, and constitutes a ratification of Executive Order 9066; that the War Power of the Congress and President, acting together, is broad enough to permit interference with the liberty of citizens, the question in each case being whether the military necessity at the time of action is such that the particular interference involved can be reasonably regarded by the military commander as being a military necessity; that the Court will give great weight to the judgment of the military commander as to the facts of military necessity and will not substitute its judgment on the facts for that of the military commander; that differences of race and ancestry, when such differences are significant facts in a total military complex, can validly become reasons for dealing with one group of citizens differently than another; and that the military facts of which the Court can take judicial notice in the present case makes curfew constitutional as applied to this group. Every step in this chain of reasoning, except the last, is equally applicable to evacuation. As to evacuation, the military facts are the same. The only question is will those military facts that the Court has found adequate to justify the lesser invasion of private rights represented by curfew also be adequate to justify the greater invasion of private rights represented by evacuation.


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2. The fact that the Court took advantage of its opportunity to avoid passing on the constitutionality of evacuation is significant. It seems reasonably clear that that avoidance is due at least in part to the Court's feeling uncomfortable about evacuation, and to its feeling even more uncomfortable about detention in a relocation center subsequent to evacuation. Notice, for example, the very last sentence in the Chief Justice's opinion.

3. Mr. Justice Murphy, in his concurring opinion, in discussing curfew, says "In my opinion this goes to the very brink of constitutional power". It would seem then that at least Mr. Justice Murphy is prepared to draw the line between curfew and evacuation, and to hold that even the military facts summarized in the present case are not sufficient to sustain evacuation. This suggests, incidentally, that the Court may have restricted its decision to curfew in order to go no farther than the unanimous Court was prepared to go.

4. Mr. Justice Rutledge's concurring opinion serves to emphasize that unanimity on curfew does not necessarily mean unanimity on evacuation — nor for that matter even a majority of the Court favorable to evacuation — since he stresses that the Court will determine for itself what actions of a military commander are reasonable in a given military situation.

5. Mr. Justice Douglas' concurring opinion is a little puzzling. It seems to have been written on the assumption that the Court was sustaining not alone curfew but also evacuation. It serves, nevertheless, to reemphasize the significance of the concurring opinions of Justices Murphy and Rutledge.

6. I suppose it is a reasonably safe guess that this opinion signals that the Supreme Court is prepared to sustain the constitutionality of evacuation although almost certainly by a divided Court. It raises much more serious question, however, as to what the Court will do with detention in a relocation center pursuant to our Leave Regulations. It seems, also, to make it very highly probable that the Court would not sustain general detention of all evacuees for the duration of the war with denial of opportunity to leave even for those whose loyalty there is no reason to doubt. This makes it all the more important, therefore, that we build up good dockets in those cases where we ~~pro-~~ may ~~pose to~~ deny indefinite leave. These are the so-called "doubtful" cases covered in Supplement 12 to Administrative Instruction No. 22, Revised.

7. The Court's opinion in the Yasui case is also good news. By vacating the judgment and remanding the case to the District Court for resentence, the Court has protected the citizenship of Yasui. This should be good news for all the evacuees who have been disturbed by the implications of Judge Fee's original opinion.

8. As a result of the Court's opinion in the Korematsu case holding that the order of the District Judge is an appealable order, we now have a case pending in the Circuit Court of Appeals for the 9th Circuit which directly presents the question of the validity of evacuation. Unlike the Hirabayashi case, the Korematsu case presents only a conviction for violating the evacuation orders -- curfew is not involved. Presumably the Circuit Court will proceed to decide the case and presumably the case will reach the Supreme Court of the United States during the Term opening this fall.

9. You will remember that there has been pending for more than a year in the United States District Court in San Francisco a habeas corpus petition filed by Miss Mitsuye Endo who lives at the Tule Lake relocation center. The Court still has the case under advisement. Since under the decisions dealing with habeas corpus, the case must be decided by the Judge in the light of the situation that prevails at the time of decision rather than at the time of filing the petition, the Endo case can present all the issues involved in detention under our Leave Regulations.

I shall be glad to have your reactions and comments on the Court's opinion and on the ideas expressed in this memorandum.

Philip M. Glick

Solicitor

SUPREME COURT OF THE UNITED STATES

No. 912 - October Term, 1942.

Fred Toyosaburo Korematsu	On Certificate from the United
vs.	States Circuit Court of Ap-
The United States of America.	peals for the Ninth Circuit.

[June 1, 1943.]

Mr. Justice Black delivered the opinion of the Court.

NOTE. [I find we don't have enough copies of the Court's opinion in this case to send to all of you. The necessary information concerning this case is abstracted below.]

Korematsu was found guilty by the District Court for the Northern District of California of remaining in the City of San Leandro, California in violation of the evacuation orders and Public 503. The District Court's order was that he "be placed on probation for the period of five (5) years, the terms and conditions of the probation to be stated to said defendant by the Probation Officer of this Court. Further ordered that the bond heretofore given for the appearance of the defendant be exonerated. Ordered pronouncing of judgment be suspended."

The defendant appealed to the Circuit Court of Appeals for the Ninth Circuit. That Court certified the question to the Supreme Court asking whether the District Court's order was a final decision reviewable on appeal. The Court held that the order was final and appealable. There was no dissent.

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WAR RELOCATION AUTHORITY

Office of the Solicitor

WASHINGTON

JUL 8 - 1943

SOLICITOR'S MEMORANDUM NO. 10 (1943)

I am attaching hereto, for your information, an extract from the Report of the House of Representatives Appropriation Committee that accompanied the appropriation bill making an appropriation for the War Relocation Authority for the fiscal year ending June 30, 1944.

The extract constitutes a rather warm endorsement of our program and particularly our leave program. This is especially significant and valuable in that it comes from the House Appropriations Committee, and also in that the endorsement was made in the midst of the news stories that resulted from unfounded allegations by certain persons testifying before the Subcommittee of the Dies Committee.

The Project Director and other administrative people at your center may not yet have seen this material. If they have not, of course you will want to make it available to them.

Philip M. Glick

Solicitor


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Instruction

WAR RELOCATION AUTHORITY

Office of the Solicitor

WASHINGTON

JUL 10 1943

SOLICITOR'S MEMORANDUM NO. 11 (1943)

In the course of his testimony before the Costello Subcommittee of the House Committee on Un-American Activities, the Director read into the record a statement of the position of the War Relocation Authority on the constitutional principles involved in the relocation program. A copy of that statement is attached for your information.

Philip M. Glick

Solicitor

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WAR RELOCATION AUTHORITY

Memorandum prepared by the Solicitor for the Director to be used in testimony before the Dies Committee

Constitutional Principles Involved in the Relocation Program

The evacuation and relocation program raise important questions of constitutionality. This is so because two-thirds of the persons of Japanese ancestry evacuated from West Coast military areas are citizens of the United States, and the great majority of the remainder are law-abiding aliens.

It is the position of the War Relocation Authority that its Leave Regulations are essential to the legal validity of the evacuation and relocation program. These Leave Regulations establish a procedure under which the loyal citizens and law-abiding aliens may leave a relocation center to become reestablished in normal life.

We believe, in the first place, that the evacuation was within the constitutional power of the National Government. The concentration of the Japanese-Americans along the West Coast, the danger of invasion of that Coast by Japan, the possibility that an unknown and unrecognizable minority of them might have greater allegiance to Japan than to the United States, the fact that the Japanese-Americanswere not wholly assimilated in the general life of communities on the West Coast, and the danger of civil disturbance due to fear and misunderstanding—all these facts, and related facts, created a situation which the National Government could, we believe, deal with by extraordinary measures in the interest of military

security. The need for speed created the unfortunate necessity for evacuating the whole group instead of attempting to determine who were dangerous among them, so that only those might be evacuated. That same need made it impossible to hold adequate investigations or to grant hearings to the evacuees before evacuation.

When the evacuation was originally determined upon, it was contemplated that the evacuees would be free immediately to go anywhere they wanted within the United States so long as they remained outside of the evacuated area. Approximately 8,000 evacuees left the evacuated area voluntarily at that time and 5,000 of these have never lived in relocation centers. The decision to provide relocation centers for the evacuees was not made until some six weeks after evacuation was decided upon, and was made largely because of a recognition of the danger that the hasty and unplanned resettlement of 112,000 people might create civil disorder.

Detention within a relocation center is not, therefore, a necessary part of the evacuation process. It is not intended to be more than a temporary stage in the process of relocating the evacuees into new homes and jobs.

The detention or internment of citizens of the United States against whom no charges of disloyalty or subversiveness have been made, or can be made, for longer than the minimum period necessary to screen the loyal from the disloyal, and to provide the necessary guidance for relocation, is beyond the power of the War Relocation Authority. In the first place, neither the Congress, in our Appro-


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priation Acts or any other legislation, nor the President, in the basic Executive Order No. 9102 under which we are operating, has directed the War Relocation Authority to carry out such detention or internment. Secondly, lawyers will readily agree that an attempt to authorize such confinement would be very hard to reconcile with the constitutional rights of citizens.

The Leave Regulations of the War Relocation Authority, instead of providing for such internment of loyal citizens or law-abiding aliens, set up a procedure under w ich any evacuee may secure indefinite leave from a relocation center if he can meet the following four conditions—

1. WRA must be satisfied from its investigation that there is no reason to believe issuance of leave to the particular evacuee will interfere with the war program or endanger the public peace and security;

2. The individual must have a job or means of support;

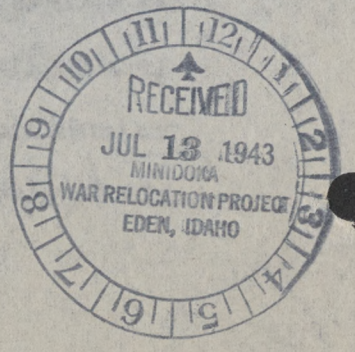
3. The community to which the individual wishes to go must be one in which evacuees can relocate without public disturbance;

4. The evacuee must agree to keep WRA notified of any change of address.

The War Relocation Authority is denying indefinite leave to those evacuees who request repatriation or expatriation to Japan or who have answered in the negative, or refused to answer at all, a direct question as to their loyalty to the United States, or against whom the Intelligence agencies or WRA records supply direct evidence of disloyalty or subversiveness. The great majority of the evacuees

fall into none of these classes, and are thus eligible to leave under the Authority's Regulations.

On June 21, 1943, the Supreme Court of the United States handed down its decision in the case of Gordon Hirabayashi v. United States. Hirabayashi had been convicted of violating both the curfew orders and the evacuation orders applicable to Japanese-Americans. The Court held that the curfew was a valid exercise of the War Power. Although the question of the validity of the evacuation orders was directly presented to the Court in that case, the Court did not decide that question. There is evidence in the majority and concurring opinions of the Court in the Hirabayashi case that, although it found the curfew to be valid, it believed the evacuation orders present difficult questions of constitutional power, and detention within a relocation center even more difficult questions. Mr. Justice Murphy, in his concurring opinion said concerning the curfew orders: "In my opinion this goes to the very brink of constitutional power." Mr. Justice Douglas, in his concurring opinion said: "Detention for reasonable cause is one thing. Detention on account of ancestry is another. . . . Obedience to the military orders is one thing. Whether an individual member of a group must be afforded at some stage an opportunity to show that, being loyal, he should be reclassified is a wholly different question. . . . But if it were plain that no machinery was available whereby the individual could demonstrate his loyalty as a citizen in order to be reclassified, questions of a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more serious character would be presented. The United States, however, takes no such position." The Chief Justice, in the majority opinion, was careful to point out that the Court was limiting its decision to the curfew orders and was not considering the evacuation orders or confinement in a relocation center.

More than a year has passed since evacuation was begun. During this year we have, of course, had time to make necessary investigations and to begin the process of considering the evacuees on an individual basis. The Leave Regulations are intended to provide the due process and hearing which fair dealing, democratic procedures, and the American Constitution all require.

June 25, 1943


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WAR RELOCATION AUTHORITY
Office of the Solicitor
WASHINGTON

JUL 15 1943

SOLICITOR'S MEMORANDUM NO. 12 (1943)

You will find attached hereto a copy of the order entered on July 2, 1943, by United States District Judge Michael J. Roche, in the United States District Court for the Northern District of California, denying the petition for a writ of habeas corpus filed by Miss Mitsuye Endo of the Tule Lake Relocation Center.

Note particularly that the Court based its order denying the petition in part on the ground that the petitioner had not exhausted her administrative remedies under Executive Order No. 9102 and the regulations promulgated thereunder. This refers, of course, to the fact that the petitioner had not filed an application for indefinite leave under the leave regulations of the Authority.

Philip M. Glick

Philip M. Glick
Solicitor

21607

WAR RELOCATION AUTHORITY
Office of the Solicitor
WASHINGTON

JUL 15 1943

12

Philip M. Glick

C O P Y

IN THE SOUTHERN DIVISION OF THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF CALIFORNIA

IN THE MATTER OF THE APPLICATION OF)

MITSUYE ENDO) No. 23688-S.

FOR A WRIT OF HABEAS CORPUS.)

ORDER DENYING PETITION FOR WRIT OF HABEAS CORPUS

In the above-entitled cause it appearing upon the face of the petition that petitioner is not entitled to a writ of habeas corpus, and it further appearing that she has not exhausted her administrative remedies under the provisions of Executive Order No. 9102 (7 Fed. Reg. 2165) and the regulations promulgated thereunder,

It is therefore ordered that the petition for writ of habeas corpus be, and the same is, hereby denied.

Dated: July 2, 1943

MICHAEL J. ROCHE
United States District Judge


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WAR RELOCATION PROJECT
EDEN, IDAHO

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WAR RELOCATION AUTHORITY
Office of the Solicitor
WASHINGTON

JUL 15 1943

SOLICITOR'S MEMORANDUM NO. 13 (1943)

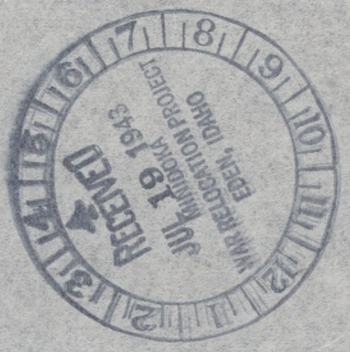
You will find attached hereto Part 3 of the hearings before a Subcommittee of the Senate Committee on Military Affairs on S. 444.

Part 3 covers the hearings held on March 6, 1943, at Phoenix, Arizona. I know you will be interested in glancing through these hearings. Parts 1 and 2 were sent to you earlier.

Philip M. Glick

Philip M. Glick
Solicitor

21789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WAR RELOCATION AUTHORITY

Office of the Solicitor

Washington

Solicitor MEMORANDUM ~~FOR ALL PROJECT ATTORNEYS~~ No 14 [1943]

Subject: Travel funds

The Executive Officer has just announced the allotment of travel funds for the Washington office and for each project for the fiscal year 1944. Each project will receive four separate allotments: one for over-all project management; a second for Community Management; a third for Administrative Management, and a fourth for Operations. The allotment for over-all Project Management is supposed to include funds for the travel of the Project Attorney.

When the budget for the entire organization was first prepared, it included as a part of the budget for each project $600 for travel by each Project Attorney. This sum was intended to cover travel for 60 days computed at the rate of $10 per day. The budget was subsequently cut by about one-sixth. Although the cut was not distributed among all of the various offices on a pro-rata basis, it is probably safe to assume that the Project Attorneys' travel budget was cut by approximately one-sixth. This would mean each Project Attorney has approximately $500 for travel for the fiscal year 1944.

Each Project Attorney will be expected to make one trip to Washington during the course of the year. While he is here an attorney from the Washington office will be sent to the project to serve as Acting Project Attorney. I believe that each trip can be expected to include a total of 21 days, including travel time. For budget purposes, travel to Washington or travel by the Washington staff is computed at $15 per day. Upon the basis of this estimate the trip to Washington will cost approximately $315. This will leave $185 for travel in the field which is computed for budget purposes at the rate of $10 per day.

I suggest that you discuss your travel plans with the Project Director or the Project Executive Officer within the near future and make definite arrangements for the projected trip to Washington. All Project Attorneys will, of course, not visit Washington at the same time. It is not practicable to determine now, however, the

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order in which the visits will be made.

When an Attorney fromthe Washington office is sent to the project to serve as Acting Project Attorney, the cost of his travel will be charged to the Washington budget.

Philip M. Glick
Solicitor


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WAR RELOCATION AUTHORITY
Office of the Solicitor
WASHINGTON

August 3, 1943

SOLICITOR'S MEMORANDUM NO. 15 (1943)

Subject: Mixed Marriage Policy of the Western Defense Command

During the meeting of the Project Attorneys in Denver on July 28, 1943, there was a brief discussion of the policy governing the return of mixed marriage families to the evacuated area. Edgar Bernhard indicated that the Western Defense Command had recently stated that it would consider each application upon its own merits and that it would not announce any general policy on this subject. He also indicated, however, that the policy announced last year would in all probability be continued in effect.

For your information there is enclosed a copy of a memorandum dated July 16, 1942, signed by Major Herman P. Goebel, addressed to Captain Astrup, entitled "Mixed Marriage Policy". Your attention is directed to the fact that this memorandum refers to releases from relocation centers for the purpose of residing either inside or outside the Western Defense Command. Strictly speaking, this reference is inaccurate and the policy is controlling only insofar as residence within the evacuated area of the Western Defense Command is concerned. There is no restriction of the Western Defense Command that limits the right of persons of Japanese ancestry to live in portions of the Western Defense Command outside of the evacuated area. Paragraphs numbered 2, 3, and 4 of the attached memorandum should, therefore, be read as though they referred to residence within the evacuated area.

Lewis A. Sigler

Lewis A. Sigler
Acting Solicitor

23685

Lewis A. Sigler

COPY

July 16, 1942

SUBJECT: Mixed Marriage Policy

TO: Captain Astrup

The following policy with respect to mixed marriage families and mixed blood individuals will go into immediate effect:

1. Mixed marriage families composed of a Japanese husband, Caucasian wife and mixed blood children may be released from the center and directed to leave the Western Defense Command area.

2. Families composed of a Caucasian husband who is a citizen of the United States, a Japanese wife and mixed blood children may be released from the center and allowed to remain within the Western Defense Command area providing the environment of the family has been Caucasian. Otherwise, the family must leave the Western Defense Command area.

3. Adult individuals of mixed blood who are citizens of the United States may leave the Center and stay within the Western Defense Command area if their environment has been Caucasian. Otherwise, they must leave the Western Defense Command area.

4. Exemptions will not be granted to any family composed of a Japanese and a non-Japanese, where the couple have no unemancipated children. An exception will be made to this rule where it appears that one of the spouses is serving in the armed forces of the United States.

5. Families composed of a non-Japanese husband who is not a citizen of the United States, a Japanese wife and mixed blood children may be released from the center on the condition that they leave the Western Defense Command area.

6. Families composed of a Caucasian mother, who is not a citizen of the United States, and her mixed blood children may be released from the center on the condition that they leave the Western Defense Command area.

The conditions upon which the releases may be granted are:

1. That the persons concerned are given a Military Intelligence Division clearance. Clearances will be handled by this office.

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2. That the family or individual has a bona fide offer of employment, or sufficient funds to prevent their becoming public charges. This office will assist in securing employment when necessary.

3. That the Chief of Police of the City or the Sheriff of the County in which the family or individual intends to reside authorizes such residence. This permit must be secured by the family or individual concerned. At the present time persons eligible for release upon condition of leaving the Western Defense Command area must plan to reside in states east of the inter-mountain states of Colorado, Wyoming and New Mexico.

In order to carry out this policy without delay it is requested that the relocation center managers promptly advise this office:

1. Of the names of the mixed marriage families in the center desiring release.

2. The contemplated residence upon release of said persons or families.

3. The contemplated plan of self-support.

4. What assistance, if any, this office will be expected to furnish in regard to support or transportation to the contemplated future residence.

In contacting the mixed marriage families and mixed blood individuals in reference to this program, care should be taken not to promise said families or persons release from the centers. Every case will be carefully studied, and releases only authorized when the stated conditions have been met, and it appears that the releases will not in any way be detrimental to the safety or welfare of this nation. In time of war conditions are constantly fluctuating, new problems are developing, and policies must of necessity be subject to immediate revision.

(signed) Herman P. Goebel, Jr.
Herman P. Goebel, Jr.
Major, Cavalry
Chief of Regulatory Section

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August 20, 1943

SOLICITOR'S MEMORANDUM NO. 16 (1943)

There are attached hereto, for your information, copies of two interesting letters to the Director concerning conclusions to be drawn from the decisions of the Supreme Court in the Hirabayashi and related cases. One is a letter from Assistant Secretary of War John J. McCloy, dated July 19, 1943, and the other is a letter from the Attorney General dated June 28, 1943. (I believe the date on the Attorney General's letter is a typographical error. It should probably be July 28. The letter was received on August 10.)

Philip M. Glick
Solicitor

Foreign Funds Control
Treas. Dept.
Federal Reserve Bank
San Francisco.

THE ASSISTANT SECRETARY OF WAR
WASHINGTON

July 19, 1943

Dear Mr. Myer:

Thank you for your letter of the 16th, forwarding a copy of a memorandum prepared by your Solicitor on conclusions to be drawn from the Hirabayashi and other cases.

I was very much impressed by Mr. Glick's analysis of these decisions, and it suggests to me the desirability of a discussion with the Department of Justice as to the significance of the decisions and possible alterations in procedure.

Sincerely,

/s/ John J. McCloy

Mr. Dillon S. Myer
War Relocation Authority
Room 822, Barr Building
Washington, D. C.

OFFICE OF THE ATTORNEY GENERAL
WASHINGTON, D.C.

July 28, 1943

Honorable Dillon S. Myer
War Relocation Authority
Washington, D. C.

Dear Mr. Myer:

On June 21, 1943, the Supreme Court in Hirabayashi v. United States sustained the validity of the curfew measure adopted by Lieutenant General DeWitt on March 24, 1942, as applied to American citizens of Japanese descent. It is gratifying to observe that the decision was unanimous. However, the Court took pains to avoid passing upon the evacuation measure and there were several concurring opinions which, while agreeing with the Court's decision, appear to sound a warning note as to the constitutionality of the remainder of the program relating to the evacuation and detention of American citizens of Japanese ancestry, and particularly as to the constitutionality of such restrictions at the present moment.

Thus, Mr. Justice Douglas spoke of the "narrow ground of decision", and indicated that it rested upon "the imminent threat of a dire emergency", i.e., potential Japanese fifth column activity in connection with

a possible Japanese attack. He stated that "where the peril is great and the time is short, temporary treatment on a group basis may be the only praticable expedient whatever the ultimate percentage of those who are detained for cause". He stated that "The orders must be judged as of the date when the decision to issue them was made", and that "the army had the power to deal temporarily with these people on a group basis." But he concluded that the denial of an opportunity to the individual to show personal loyalty to the United States in these circumstances "does not necessarily mean that petitioner could not have a hearing on that issue in some appropriate proceeding." And he indicated, without deciding, that habeas corpus might be available as a remedy to any individual who was not given the opportunity for a hearing so that he might be relieved of the restrictions not applicable to other American citizens.

Similarly, Mr. Justice Murphy gave notice that he was prepared to consider the present restrictions in a different light. In sustaining the conviction in the case before the Court, he said, "I think that the military arm, confronted with the peril of imminent enemy attack and acting under the authority conferred by Congress, made an allowable judgment at the time the curfew restriction was imposed.

Whether such a restriction is valid today is another matter."

He concluded:

> Nor do I mean to intimate that citizens of a particular racial group whose freedom may be curtailed within an area threatened with attack should be generally p revented from leaving the area and going at large in other areas that are not in dange of attack and where special precautions are not needed. Their status as citizens, though subject to requirements of national security and military necessity, should at all times to accorded the fullest consideration and respect. When the danger is past, the restrictions imposed on them should be promptly removed and their freedom of action fully restored.

In a separate concurring opinion, Mr. Justice Rutledge stated, in part:

> The officer [General DeWitt] of course must have wide discretion and room for its operation. But it does not follow there may not be bounds beyond which he cannot go and, if he oversteps them, that the courts may not have power to protect the civilian citizen. But in this case that question need not be faced and I merely add my reservation without indication of opinion concerning it.

I cannot, of course, know whether the views expressed in these concurring opinions would lead their authors to vote against the validity of the exclusion and detention measures as of the present day, nor can I venture to predict whether such views would command the assent of a majority of the Court if the issue were squarely placed before it.

However, I do feel that the validity of these measures is in jeopardy, and that I should advise you of the situation for your consideration in your program to afford necessary protection and at the same time avoid the dangers indicated by the opinions in this case.

Sincerely yours,

/s/ Francis Biddle

Francis Biddle
Attorney General

#17,200

Instructor

September 2, 1943

SOLICITOR'S MEMORANDUM NO. 17 (1943)

Subject: Notes on Project Attorneys' Conference,
Denver, Colorado, July 28, 1943

I am attaching hereto a brief summary of some notes that were taken during the morning and afternoon sessions of our meeting in Denver. I believe you will find them helpful. Notes were not taken of the discussion at the evening session.

Philip M. Glick
Solicitor

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#17,200

NOTES ON PROJECT ATTORNEYS' CONFERENCE

Denver, Colorado--July 28, 1943

Morning Session

1. Only two general topics were discussed during the morning session of the Project Attorneys' Conference - segregation and leave clearance. The session followed two days of intensive discussion at the general segregation conference of Administrative Instruction No. 100, the Segregation Manual, and segregation policies generally. As a result the discussion of segregation by the Project Attorneys was confined chiefly to the raising of special questions about segregation policies and procedures to be followed.

Throckmorton raised the question of whether aliens who indicated loyalty to Japan should not be segregated on the basis of their feeling of loyalty toward Japan, even though they may have answered the alien question 28 in the affirmative and have not requested repatriation. Horn raised a question about the conduct of segregation hearings at Granada, where apparently the project does not have all the evacuee records which should be before interviewers in holding segregation hearings. Lovell asked about the desirability of requiring oaths in the holding of segregation hearings; the Solicitor pointed out that none should be required because the segregation hearing does not result in a final decision as to denial of leave and an oath might unduly formalize the proceedings.

Walk pointed out the apparent duplication in appeals procedure, in that there would be appeals to the appeal board for mistakes in segregating certain persons, while the leave clearance procedure would be used in the case of persons properly segregated who desired to leave Tule Lake and could convince WRA of their change of heart concerning loyalty to this country. Discussion of the matter of combining appeals with leave clearance was closed by the Solicitor, who indicated that the matter of duplication and of the feasibility of combining the procedures would have to be thought through and worked out later.

Terry raised the question of whether we should permit an evacuee to file a change of answer, or whether we should permit him merely to file an application to change his answer. Walk suggested that the filing of a change of answer from "no" to "yes" should probably be permitted only in cases involving mistakes, chiefly because of the public relations problem that would otherwise be created. The Solicitor pointed out that in the future there will be no hearings on changes of answer or applications to change answers, as such, since any hearings involved will be for the purpose of segregation or of leave clearance (any former hearings on changes of answers becoming part of these dockets) and it therefore makes no difference whether the evacuees "change" or "apply to change" their

answers. In either case the hearing board will have to weigh the evacuee's action in the light of all the other circumstances. In this connection Terry pointed out that at Gila River hearings are held on request to change answers as part of the original project investigation on leave applications.

2. The second topic discussed at the morning session was leave clearance. Sigler discussed the changes from former leave clearance policy that appear in the new handbook on issuance of leave. The effect of Supplement 9 to Administrative Instruction No. 22 (giving the project directors authority to grant indefinite leave prior to leave clearance in certain cases) was discussed. It was made clear that the project director has authority to refuse to grant indefinite leave prior to clearance, even though the particular evacuee does not fall expressly within one of the categories set forth in Supplement 9.

Sigler discussed the inadequacy of the leave clearance dockets that come into Washington. He pointed out that most dockets consist of Form 126 and a cursory project record check with a rubber stamp recommendation. No indication appears in most dockets of any adequate investigation. Sigler raised the question of the type and extent of investigation which should be adopted and the project attorneys were asked to describe what was done at their respective projects.

Haas stated that the evacuee is checked against the internal security records. If there is any internal security record a further check is made with members of the staff and evacuees. About 25% of the cases receive this further check.

Curtis stated that there was little project investigation except an internal security record check.

Lechliter reported to the same effect.

Silverthorne had not been at Tule Lake long enough to become acquainted with the project investigation carried on there.

Throckmorton reported that the names of the evacuees seeking leave are sent around to the various divisions for such information as those divisions have. He stated that the internal security records at Manzanar were not too good and that the project director relied pretty much on the Washington stop list to catch those evacuees who should not be given indefinite leave.

Featherston reported that at Minidoka there was also considerable reliance on the Washington stop list, although each leave application was checked with the central files. At Minidoka there is a central filing system which is supposed to contain the records of all divisions pertaining to the particular individuals.

Lovell reported that there is a central record check made on all evacuees requesting indefinite leave and that all such evacuees are interviewed by the Employment Division concerning the employment offer on the outside.

Horn reported that the application for leave is checked with the internal security division and that the evacuee is interviewed by the employment division concerning his employment offer.

Barnhart reported that the stop list was checked and that there was a check with the welfare division and with the internal security division in addition to an employment division interview on the job.

Terry reported that there was a special review committee set up at Gila River which checks all recommendations of the leave section for the granting of leave under Supplement 9. The evacuee applicant appears before this committee. He is told that the object of the interview is to make sure that Gila River has a good relocation record for the benefit of the other Gila evacuees. Questions are asked concerning family background, personal history and experience, plans, financial status, attitude toward Japan, etc. The conditions upon which leave is granted are explained to the applicant. Each interview takes about 15 minutes. Notes are taken but there is no transcript prepared. The project director acts after considering the notes and recommendations of the committee.

Sigler recommended that the project attorneys discuss with the project directors the need for a more formal and more intensive project investigation (as required by the regulations governing the issuance of leave) on applications for indefinite leave and applications for leave clearance. The factors that Washington needs a record on -- including all the criteria deemed relevant by the Japanese-American Joint Board -- were discussed and it was agreed that a list of those factors would be made available to the projects. (Note - these factors have since been sent to all project directors.)

Leflar led a discussion on the conduct of interviews in doubtful leave clearance cases, under Supplement 12 of Administrative Instruction No. 22. In his discussion he outlined the factors which should be covered in the interview as they appeared in his memorandum, copies of which were made available to all project attorneys. There followed a general discussion of techniques of interviewing and of eliciting information. The need for framing questions in such a way as not to suggest answers and in such a way as to get at the mental processes of the evacuee was discussed at considerable length. Featherston raised the question of whether loyalty or danger to national security is the criterion for the denial of leave clearance. The Solicitor pointed out that in the case of citizens the Director will presume that a record of disloyalty to the United States

or loyalty to Japan means that the particular person is dangerous to the national security. Citizens have an obligation to this country which is so strong that evidence of disloyalty justifies the inference of dangerousness.

Walk was concerned about the use of the criterion of loyalty rather than that of danger to internal security, arguing that the test of danger is much more tangible than the test of loyalty. The Solicitor on the other hand, commented that in his judgment there is not a great deal of difference which criterion is used, because the public identifies the two in its thinking.

The question of whether stenographic transcripts of leave clearance hearings should be prepared was raised and it was decided that this should be left to the judgment of the various project boards.

Sigler reviewed a transcript of hearing under Supplement 12 which had been submitted to Washington and discussed its merits and defects. The chief criticism of the transcript lay in the use of leading questions which seemingly indicated a bias on the part of the interviewers in favor of the evacuee being questioned. The need for a record showing complete objectivity was stressed.

Sigler closed his discussion with a recommendation that at the close of each leave clearance hearing a detailed memorandum of recommendation be prepared for the signature of the project director. This memorandum should not only highlight the facts brought forth at the hearing but should discuss the demeanor of the witnesses, the weight given to the various factors considered by the project director in making his recommendations, and all other factors which bore directly or indirectly upon the recommendation made.

NOTES ON PROJECT ATTORNEYS' CONFERENCE

Denver, Colorado -- July 28, 1943

Afternoon Session

2. (Continued) Appeals for Segregants at Tule Lake

(a) It has been contemplated that segregants after reaching Tule Lake might either apply for leave clearance or appeal from the segregation determination. It is further contemplated that if either the appeal or leave clearance should be granted, the segregant, thereafter, will be transferred to a relocation center. Then, he will be eligible for indefinite and/or seasonal leave. Leave should be taken only after transfer to a relocation center and not directly from the segregation center.

(b) It was brought out that it would be simpler to do away with the appeal procedure altogether, thus permitting leave clearance hearings to serve both purposes. This would be practicable because the leave clearance hearing would cover the same ground as an appeal and would be based on the same tests. There is no gain from having two types of hearings when one will serve, and confusion will be avoided. Furthermore, any person whose appeal might be granted would presumably, by the same token, be eligible for leave clearance so that holding the leave clearance hearing itself in the first place would simplify the whole situation.

3. Judicial Hearings.

Is evacuee judicial control working reasonably well?

Are adequate punishments imposed by evacuee judicial commissions?

Are hearings before project directors preferable?

Should more cases be referred to outside judicial agencies?

Are there any special typesof offenses giving rise to particular difficulty?

What is the proper role of the project attorney in judicial hearings?

(These questions not taken up in order)

(a) Experience and suggestions from the various projects.

Heart Mountain. Lechliter described the setup and procedure for the preliminary hearing board and the temprory judicial commission. He pointed out that the preliminary hearing board passes on the question of whether a case should be tried by the judicial commission, by the Project Director, or by an outside judicial agency. In practice, this means a determination of whether the case will be tried before the temporary judicial commission. The Project Director has a veto over the board's determinations, though so far, he has not exercised this veto power to any extent.

It was brought out that nothing in Administrative Instruction No. 54 will prevent continuance of the preliminary hearing board after a permanent government system is established under the newly adopted charter.

Lechliter explained that he spends much time before judicial commission trials with both the prosecuting attorney and the defense attorney advising them in reference to the case that is coming up. He stated that decisions are rendered by the judicial commission only after a conference with the Project Director and that sentences agreed to by the Project Director and the commission are always imposed. These sentences are announced by the commission as though they were the commission's own.

Lechliter stated that 90 per cent of the arrests at Heart Mountain turn into hearings, at least before the preliminary hearing board. Letchliter also stated that at Heart Mountain, the Prject Director was always in agreement with the conclusions arrived at by the judicial commission not only because those conclusions are announced only after conferences with him, but also because of his confidence in the commission.

Granada. Don Horn stated that very few cases had been tried before the judicial commission at Granada. Most law and order cases arising there have been tried under the state law at Lamar.

Don emphasized the excellent effect which can be achieved by a strong internal security organization. He brought out the fact that a good police chief can take care of most difficulties arising in a center so that, under such a chief, comparatively few major law and order difficulties will arise.

Gila River. Jim Terry stated that practically every one of the law and order cases which had arisen at Gila River had been handled by pleas of guilty so that it had been unnecessary to hold formal trials.

There was some general discussion as to the desirability of formal trials from the point of view of evacuee morale and law enforcement. Terry expressed a dislike for such trials. It was brought out that at Heart Mountain, the evacuees are strong for them. It was argued that, in some instances, judicial hearings might be held more for the purpose of serving the functions of a theatrical performance than for serving the ends of justice. On the other hand, it was emphasized that deliverate pressures designed to induce please of guilty might result from a policy of eliminating such trials. No formal conclusions were arrived at, but there seemed a tendency to feel that the best policy lay somewhere in between, subject, however, to the qualification that the problem at each project called for local solution, and varying factors would be dominant at different centers.

Terry stated that law and order matters were going along satisfactorily at Gila River; that there had been no real trouble so far, and that none was anticipated.

Jerome. A permanent government has not yet been established. The temporary judicial commission handles cases which the Project Director turns over to them. Some cases have also been handled by the county authorities, but Ulys. Lovell was of the opinion that they have not been handled very satisfactorily due to the fact that county officials may have been more interested in aiding county finances by imposing fines than in stopping the number of offenses. The Project Director himself has conducted some trials and has sent some offenders to jail. Ulys. stated that evacuee offenders definitely prefer fines to jail sentences.

Ulys. stated a belief that cases handled by the Project Director himself were better handled than those which were heard either before outside tribunals or before the temporary judicial commission. He raised a question as to whether the judicial commission system really serves a useful purpose, but he was inclined to believe that, after segregation has been completed, community self-government might be more efficient than previously and that any change in the judicial system should await the experience which would accrue after segregation.


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Topaz. Ralph Barnhart stated that at Topaz, there had been no big-time gambling, no bootlegging, and no serious crime problems. There had been no judicial commission cases, therefore, no judicial commission procedure had been developed.

He stated that felony cases had been taken to the county courts, with pleas of guilty, and that jail sentences had been imposed in such cases. It was his opinion that the law and order problem was being handled satisfactorily.

Poston. Ted Haas stated that serious cases had in general been handled in the outside courts. As to less important cases, there were considerable pressures from the evacuees to drop the cases and they were in general not handled very vigorously. That is, no heavy punishments had been imposed.

Other Projects. There was no detailed discussion along the above lines in reference to other projects, though the problems presented at such other projects were dealt with in other connections during the conference.

(b) Gambling cases.

It was brought out that "big-time gambling" involved a serious and difficult problem at two or three centers, and considerable discussion as to means for dealing with the problem ensued. The difficulty of securing evidence that would stand up in court or before a judicial commission was emphasized as the principal barrier to securing convictions. For example, it was stated that, at one of the projects, "everybody knows who the three big-time gamblers are, but we cannot get the evidence on them."

There was a general discussion of the practical problem of getting evidence centering on the types of evidence which might be secured. Bob Throckmorton felt that there should not be so much insistence on legal sufficiency of evidence in gambling cases. "We are not bound by the formal rules of the law of evidence; why should we not allow evidence of reputation for gambling as well as evidence of the direct fact of gambling in a given instance?" Such reputation evidence is allowed under modern statutes in a number of other similar situations.

Maurice Walk did not think that the rules of the law of evidence, as such, need be followed. He believed that


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it would be all right to admit hearsay evidence. There was some disagreement on this but not much.

It was brought out that the main difficulty was not so much as to the type of evidence, but rather, as to securing anyone to testify at all. Most evacuees, it seems, were unwilling for one reason or another to testify against these offenders. Don Horn stated that he felt the evacuees who had knowledge of the fact would testify if they were assured of protection from others who might attempt to punish them for testifying. One or two others said that they had not experienced any such difficulty in securing of testimony in honest cases.

The suggestion was made that, inasmuch as legally admissible evidence is not required before administrative tribunals, it might be possible to have members of the administrative staff (appointive personnel) testify as to general reputation at hearings on gambling charges against big-time gamblers. There seemed to be not much enthusiasm for this approach.

It seems to be generally agreed that big-time gambling is a serious offense and that professionals might some times deprive innocent evacuees of their life savings or of earnings needed for current support of their families. Such cases need to be dealt with vigorously. On the other hand, small social games and bingo-type games are not very important, and it would be unwise to get much excited about them. Furthermore, those in charge of law and order cases must consider the popular reaction to evidential short cuts such as were suggested, as well as the popular attitude toward the crimes involved, particularly where judicial commissions are not acting vigorously; and administrative-judicial action is thought to be necessary. Mr. Walk asked a question about the advisability of taking action against a witness who refused to testify, but Mr. Glick felt that such action would be desirable only in very serious cases of contumacy and only when community sentiment would definitely support the action against such witnesses.

(c) Extra-legal law enforcement.

Bob Throckmorton described the "Manzanar Peace Committee" which was made up largely of judo experts who handled law and order cases in their own fashion. They made reports to the Project Director but were really vigilantes. They were definitely from the pro-Japanese group, and most of them will be transferred to Tule Lake.

Their activity in establishing "the peace of Manzanar" was largely an emergency matter.

A rather similar situation, though not as elaborate, existed at Jerome after the registration period, with the leaders of the "organized group" performing a function similar to that of the Manzanar Peace Committee.

Ralph Barnhart stated that after the army registration, the volunteers organized themselves into a group for their own protection in somewhat the same fashion. The evacuee group at Topaz, however, now feels a responsibility for law and order and is accepting that responsibility through regular official channels.

Kent Silverthorne stated that at Tule Lake, the "good people" had stopped the "sand sandwich" business pretty much on their own responsibility.

By way of summary, Edgar Bernhardt brought out that, if (1) the volunteer group is an arm of the Project Director, or (2) it consists simply of good people making clear what they believe constitutes right conduct, everything is all right; but if force or the threat of force underlies the voluntary activity , it constitutes pure vigilanteism and is itself a danger to real law and order.

(d) Function of project attorneys

Lewis Sigler brought out that there was certainly no objection to a project attorney "presenting the case" without actually prosecuting it. The internal security officers can do the same thing.

As to what the project attorney should do in any particular project, a great deal must depend upon the project director and his attitude. If he wants the project attorney to prosecute, there probably is no great harm in it, though it is believed that the project attorney by being available to give advice to all concerned can serve a more useful total function.

(d) Summary.

Mr. Glick concluded that the responsibility is in the last analysis on the Project Director to see that cases are really prosecuted. He felt that the administrative staff was "falling down on the job" when local offenses occurred and were not solved and punished. Various suggestions for improvement of the situation were made.

These included the improvement of the internal security staff, both appointed and evacuee; more appointed police in some instances; a public campaign against crime conducted through newspapers and other contacts with the people; the imposition and actual collection of fines; (it was brought out that judicial commissions probably will not impose fines hereafter since the money will have to be paid into the Miscellaneous Receipts Fund of the Treasury but that project directors can impose fines in cases tried before them.)

Ed Ferguson said that he felt that the difficulty in criminal enforcement in the centers lies deeper than the surface matters represented in these suggestions, that it has its roots in the social situation, in numerous understandable resentments, in nationalist feeling, and in other similar basic aspects of the situation.

Mr. Leflar suggested that it might be worthwhile to try to start a new deal on law and order cases when segregation is completed inasmuch as some of the most disturbing elements in reference to evacuee handling of cases might be eliminated.

The question was asked as to whether it would be wise to turn all offenses over to the outside courts. Don Horn answered "yes", but all others said "no."

A question was asked as to whether disciplinary matters can be better handled by the project director than by judicial commissions. Terry felt that the judicial commission system needs guidance but is worthwhile, that we should try it out more fully, but that the project director should be ready to step in when needed. Ulys. Lovell preferred the system of trials by project directors but wanted the judicial commission system more fully tried out after segregation is completed. The others preferred the present system.

4. The Leupp Center.

Mr. Glick stated that the board of review in the Washington office is not satisfied with the manner in which the projects are observing the governing instruction. Particularly, there is dissatisfaction as to the adequacy of dockets sent in on particular cases. There is a failure in these dockets to establish proper grounds for segregation to Leupp Center under the procedural and substantive provisions of the instruction.

Ed Ferguson, as executive secretary of the board of review, explained the board's attitude, principallyby


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giving a few illustrative cases:

(a) Tule Lake Case -- five men as to whom there were meager charges.

(b) Poston Case -- four zootsuit boys (no previous disciplinary action in reference to the boys in question had been taken at Poston.)

(c) Other cases from other centers were also discussed.

Mr. Glick, by way of summary, raised three principal questions and discussed them.

a. What is an aggravated trouble-maker within the meaning of Administrative Instruction No. 95, Section I?

b. What is the function of a docket in a Leupp Case?

1. Show a Leupp case as defined by the instruction. There should be sufficient detailed information and transcript in the docket to enable the board of review to see from the docket that the case actually falls within the scope of the instruction.

c. What is an emergency case such as may be sent to Leupp on the telegraphic or telephone authorization with a docket to be sent in later?

1. It must be a real emergency with factors requiring that action be taken at once instead of one which could be handled amost as conveniently through the regular procedure. Most cases sent in so far have not been real emergency cases in this sense.

2. It must be a case that can be supported clearly by a later docket in the same sense that is referred to in item (b) just above.

A question was raised as to whether the Leupp Center might be abolished after the Tule Lake Center is established. The answer given was that Tule Lake cases and Leupp cases would definitely fall in different classes. There will be aggravated trouble-makers who are perfectly loyal to the United States, therefore, not proper candidates for the Tule Lake Center who, under present procedures, would be candidates for Leupp. No decision on the policies involved in maintaining the Leupp Center after the segregation center is established has been


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as yet reached, however.

5. Property Problems.

Edgar Bernhard led the discussion in this field. He did so by raising and discussing several specific points as follows:

a. Bernhard's office can assist project attorneys and evacuee litigants in hastening the grant of litigation "permits" to go into the Western Defense Command.

b. There are a good many West Coast governmental offices with which Bernhard can assist project attorneys in making useful contacts.

c. Bernhard's office would like to receive copies of all property correspondence sent out by the project attorneys.

(At this point, there was some discussion of the recent notification that copiesof all project correspondence be sent to the field assistant directors' offices. Mr. Glick pointed out that this was not intended to apply to project attorneys and that their correspondence need not be sent to the field assistant directors' offices, unless specifically asked for.)

d. Bernhard asked that, when project attorneys are given the names of three lawyers under the attorney referral system, they should write back promptly to the San Francisco office indicating which of the three names had been selected for service in the particular case. Administrative Instruction No. 101 requires that this be done. Further, he asked that, if no name from the referred list be selected, this information be also given him. The purpose of this transmittal of information is to enable Bernhard to keep his referral list up to date.

e. It was brought out that project attorneys may and should write directly to Bernhard's office on California, Oregon, and Washington legal questions as to which the facilities of the San Francisco office are probably better than those of the Washington office.

f. There was some discussion of the quality of work done by particular West Coast property officers on


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cases referred to them.

g. Project attorneys should report to Bernhard all cases of reported thefts or other wrongful conduct on the part of anyone with evacuee property left on the West Coast. If it turns out that WRA does not have sufficient facilities for handling all reported cases, more members can be added to the West Coast staff.

h. There was a brief discussion of the proper procedure to be followed inuse of Form WRA-154.


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September 4, 1943

SOLICITOR'S MEMORANDUM NO. 18 (1943)

Subject: Report of Costello Subcommittee of Dies Committee on WRA.

The majority and minority reports of the Costello Subcommittee of the Dies Committee on its investigation of WRA have been published. Four pamphlet copies of the reports have been mailed to each Project Director. You should be able to get a copy for your use from his office.

In addition, 50 mimeographed copies of the minority report of Congressman Eberharter have been sent to each project. I assume that one of these copies will be made available to you in due course.

Philip M. Glick

Solicitor

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Solicitor

WAR RELOCATION AUTHORITY

Office of the Solicitor

WASHINGTON

September 23, 1943

SOLICITOR'S MEMORANDUM NO. 19 (1943)

There has been published as Senate Document No. 96 of the 78th Congress, 1st Session, the complete text of a Message from the President to the Senate in response to the Downey Resolution, Senate Resolution 166 adopted by the Senate July 6, 1943, together with the complete text of a "full and complete statement" on the work of WRA, issued by Director of War Mobilization James F. Byrnes in response to the Downey Resolution.

Fifty copies of Senate Document No. 96 have been sent to each Project Director. You should therefore be able to secure five or six copies for your own use from his office.

Senate Document No. 96 does not contain the text of the President's parallel message to the House of Representatives, nor the text of the "short preliminary statement" referred to in the President's message. Copies of these two documents are attached hereto for your information. You should also bring them to the attention of your Project Director, since I am sure he will be interested in seeing them.

Philip M. Glick

Solicitor

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THE WHITE HOUSE

WASHINGTON

The Speaker of the House of Representatives

Sir:

Subject: Senate Resolution 166 adopted by the Senate on July 6, 1943.

On July 6, 1943, the Senate of the United States considered and agreed to Senate Resolution 166.

The Resolution asks that the President issue an Executive Order directing that the War Relocation Authority, in administering the relocation program for Japanese-Americans evacuated from the West Coast, segregate the disloyal persons from the loyal, and directing the appropriate agency of the Government to issue a full and complete authoritative statement on conditions in relocation centers and plans for future operations.

I find that the War Relocation Authority has already undertaken a program of segregation. That program is now well under way. The first train movements began in early September.

In response to the Resolution I asked the Director of the Office of War Mobilization to issue a full and complete authoritative public statement on conditions in relocation centers and plans for future operations. A short preliminary statement on this subject was issued on July 17, 1943. A full and complete statement was later made public on SEP 14 1943.

I am attaching hereto for the information of the House of Representatives copies of my message to the Senate in response to Senate Resolution 166 and of the two public statements concerning the relocation program that have been recently issued.

Respectfully,

FRANKLIN D. ROOSEVELT

The White House

SEP 14 1943, 1943.

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HOLD FOR RELEASE HOLD FOR RELEASE HOLD FOR RELEASE

JULY 17, 1943

NOTE: Release to editions of newspapers appearing on the streets NOT EARLIER THAN 8:00 P.M., E.W.T., Saturday, July 17, 1943.

The same release also applies to radio announcers and news commentators.

PLEASE SAFEGUARD AGAINST PREMATURE RELEASE OR PUBLICATION.

STEPHEN EARLY
Secretary to the President

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Justice Byrnes, Director of War Mobilization, has issued the following statement, which was prepared at the President's request by the War Department and the War Relocation Authority in response to Senate Resolution 166 relative to the treatment of persons of Japanese ancestry in relocation centers:

The West Coast Evacuation

Following the attack at Pearl Harbor, the Secretary of War after consultation with the Commanding General of the Western Defense Command, as well as other officials and agencies of the government, authorized the evacuation of citizens and aliens of Japanese descent from the West Coast areas under the authority of Executive Order 9066. The objective was to evacuate the entire Japanese population from a sensitive and threatened military area. It was a precautionary measure and carried no implications of individual disloyalty. The indications were, however, that there were a number of unidentified persons of Japanese descent, both citizen and alien, who, by reason of their attachment to Japan, constituted a potential threat to our security. The Army effected the original moves in connection with the evacuation and set up the assembly centers into which the evacuees were first gathered. A detailed report on the evacuation and the part played by the Army has been prepared by the Commanding General, Western Defense Command. It will shortly be made available to the President and the Congress.

The Relocation Centers

The Army has not, however, attempted to deal with the problem of relocation and resettlement of the evacuated people. Shortly after the evacuation was decided upon, the War Relocation Authority was set up in order to relieve the Army of non-military burdens and to assist the evacuees in re-establishing themselves away from the coastal zone. The first step was the establishment at widely separated inland points of ten large relocation centers which were built by the Army but have been managed from the beginning by the War Relocation Authority.

The great bulk of the evacuated people are still living in these centers. They are quartered in barrack-type buildings of frame construction and take their meals in mess-halls, each accommodating upwards of 250 people. They are not allowed at any time to leave the center without a permit and after dark are restricted to the limits of the barracks area. Preservation of law and order within the centers is a responsibility of the War Relocation Authority. However, the external boundaries of each project area are guarded by a detachment of military police who are available for duty within the center in the event of disorder. Thus far, they have been summoned to quell a disturbance on only one occasion.

Evacuees at the centers are provided by the government with food, housing, and medical care. Schools are maintained for the children. A portion of the food is produced by the evacuees themselves on government-owned or government-leased land within the

project area; some perishable commodities are purchased locally; and practically all other food is bought through the Quartermaster Depots of the Army. All rationing restrictions applicable to the civilian population are strictly followed and two meatless days are observed each week. In areas where local milk supplies are short, milk is provided only to small children, nursing or expectant mothers, and special dietary cases. Beef served at the centers is third grade and no fancy meats of any kind are furnished. In general, the food is nourishing but definitely below Army standards. The cost of feeding at the centers over the past several months has ranged from 34 to 42 cents per person per day.

In order to hold down the costs of operating the centers, the War Relocation Authority has utilized evacuee labor to the fullest possible extent in the production of foodstuffs and the development of agricultural land, and in providing the necessary community services. Top positions in each line of work, however, are occupied by non-Japanese Civil Service employees. Those evacuees who work are paid at the rate of $12, $16, or $19 a month and are provided, in addition, with clothing allowances for themselves and their dependents. The clothing allowances range from $24 a year for small children in the southerly centers to $45 a year for adults in centers where winters are severe. Approximately 90 percent of the employable evacuees at the centers are engaged in some line of work at the present time.

Leave Procedures

The second step in the WRA program for the evacuated people is to help the loyal American citizens and the law-abiding aliens in resettling outside the relocation centers and away from the evacuated coastal zone. Present regulations provide that any resident of a center -- citizen or alien -- may apply for permission to leave the center in order to take a job in agriculture or industry and establish residence in a normal American community. Before permission is granted, however, the evacuee's background and record of behavior are carefully checked, and the attitude of the community toward receiving evacuees is ascertained.

The War Relocation Authority has acquired extensive information concerning the past history, affiliations, and attitudes of evacuees past the age of 17 years. On the basis of these records, leave permits are granted. As a further precaution, names of more than 85 percent of the evacuees have been checked against records of the Federal Bureau of Investigation, and these checks will be continued until the list of adult evacuees has been completely covered. If there is evidence from any source that the evacuee might endanger the internal security of the Nation or interfere with the war effort, permission for leave is denied.

In addition, there has been established a Joint Board, composed of representatives of the War and Navy Departments and the War Relocation Authority. This board maintains liaison with the Federal Bureau of Investigation. Approval of the board is required for evacuees who desire to work in war industries or wish to relocate from relocation centers into the Eastern Military Area. Such approval is given only after all pertinent information available from the cooperating agencies has been examined and evaluated.

Segregation of the Disloyal

The War Relocation Authority is now undertaking to segregate those evacuees whose loyalties lie with Japan. The segregated group will be quartered in a center by themselves and will not be eligible for leave. The other people, however, will continue to be eligible for leave and will be encouraged by the War Relocation Authority to take useful employment in normal communities outside the evacuated area.

West Coast Restrictions Continued

The evacuation was the result of military considerations, and decisions of the War Department in the matter were based, and will continue to be based, only on such considerations. The original restrictions have been modified slightly, particularly with respect to soldiers of Japanese ancestry in the United States Army. In a few mixed-marriage cases and in emergency situations, individual permits to enter evacuated areas have been, and will continue to be, issued by the Commanding General of the Western Defense Command.

In all other respects the original restrictions remain in force. There is no present intention to alter them, nor is any relaxation under contemplation. From the beginning the War Department and the Commanding General of the Western Defense Command have been in close and continuing consultation and agreement on all matters relating to evacuation and security of the West Coast areas. The present restrictions against persons of Japanese ancestry will remain in force as long as the military situation so requires.

Japanese-Americans in the Army

Prior to the outbreak of war there were a number of American citizens of Japanese descent in the Army. Since the outbreak, a combat team of soldiers of Japanese ancestry has also been inducted from Hawaii and the Mainland. These men in the combat team have been screened; they are all citizens of the United States; and they have all volunteered for service. Thus far their record has been excellent. Other American soldiers of Japanese descent have performed useful and hazardous services in connection with our operations in the Pacific and a number have already been decorated for meritorious service. It is the policy of the War Department and the Army in all respects to accord American soldiers of Japanese ancestry the rights and privileges of all other American soldiers.

A more complete report in accordance with the terms of Resolution 166 will be prepared and will be made available shortly.

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