

The Nisei Paradox

*How Does One Know When the Vision of the Constitution is Blurred by Crisis?
The Memory of the Japanese-American Relocation and Internment in Idaho.*

by Chief U.S. Magistrate Judge Ronald E. Bush (Sept. 2017)

The dramatic production presented to you in this Bench Bar Conference, titled *The Nisei Paradox*, tells a story that many might find inconceivable. Young men were conscripted to serve in the United States Armed Forces. At the time they were conscripted, those same young men were living with their families under armed guard behind barbed wire fences, hundreds of miles from their homes, filling tight quarters with little privacy in hastily constructed wooden barracks shared with many other families. They had been forced to leave nearly all their belongings behind, their parents had been forced to give up businesses, homes, and farms. Before receiving their draft notices, they were labeled enemy aliens and told that they could not serve in the Armed Forces even if they wanted to volunteer to do so. They were not free to leave the place where they were incarcerated. They did not know when or if they would be permitted to leave -- unless, that is, if they reported for induction to the draft board located in Jerome, Idaho, the town closest to the internment camp in which they lived.

These young men were Nisei – born in the United States of Japanese immigrants, and therefore U.S. Citizens, their parents and grandparents had been living in the United States for many years, often decades. Their lives changed on December 7, 1941, when fighter planes of the Imperial Japanese Navy launched a surprise attack upon Pearl Harbor. More than 2000 American sailors and soldiers died, many more were wounded. Dozens of

ships were destroyed including much of the Navy's battleship fleet, along with more than 300 airplanes. The next day, the United States declared war on Japan, and three days later declared war upon Germany and Italy. For all Americans, any normalcy that existed before that infamous attack upon Pearl Harbor was gone. For the ethnic Japanese living on the west coast of the United States, their lives were turned upside down.

After Pearl Harbor, suspicious eyes turned upon people living in the United States who had Japanese ancestry, or Italian or German ancestry. Particularly on the west coast of the United States, where tens of thousands of American citizens and legal residents were of Japanese ancestry, rumors began to fly that there were spies and saboteurs everywhere plotting against the United States on behalf of the Japanese Emperor. Japanese were suspected to be in radio contact with the Imperial Navy to assist in a naval attack on the west coast. Local and state officials joined a chorus of ever increasing xenophobia directed against those of Japanese ancestry, and urged the federal government to remove all ethnic Japanese.

Almost immediately after the attack upon Pearl Harbor, Idaho's governor, Chase A. Clark, ordered that any Japanese nationals living in Idaho be confined to their homes until their "status" had been determined. That requirement was lifted after a few days, but with instructions to law enforcement to keep a close eye on them. On the west coast, the

federal War Department began implementing steps to single out and segregate all persons of Japanese ancestry, Japanese nationals, and U.S. citizens alike. Such actions stemmed from President Roosevelt's Executive Order 9066, signed 75 years ago, which drew upon his authority as commander-in-chief to exercise the war power of designating "exclusion zones," for the purpose of excluding persons from "military areas."

The military also was suspicious of the ethnic Japanese. Many in the War Department believed that there was a "Fifth Column" of Japanese living in the United States who intended to sabotage American military installations and to spy upon American operations. The War Department designated nearly the entire Pacific Coast to 100 miles inland as a "Military Area" from which persons could be excluded. In a series of orders issued by General John L. DeWitt, persons of Japanese ancestry were notified that they would be excluded from the Military Area, most assets of Japanese nationals were frozen, and a curfew was imposed for all persons of Japanese ancestry within the Military Area. Finally, General DeWitt issued Exclusion Order No. 346, by which all persons of Japanese ancestry, of whatever degree, whether citizens or non-citizens, were ordered to report to assembly centers on the west coast, where they would be detained until moved to permanent "Relocation Centers." The War Relocation Authority was created to oversee the relocation and detention process. Within nine months, over 100,000 people of Japanese ancestry were segregated, assembled, and transported to "relocation centers" in interior regions of the West and in Arkansas. One such facility was constructed in the sagebrush plain of rural Jerome County, Idaho. Its official name was the Minidoka Relocation Center, but it was sometimes referred to as the Minidoka Camp and locals called it the "Hunt Camp," named after the railroad siding next to its location.

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Ten thousand people were incarcerated at the Minidoka Camp after its opening in August of 1942. More than two years later, in December of 1944, the U.S. Supreme Court ruled in the case of *Ex Parte Endo* that detention of citizens who could be determined to be loyal to the United States was unconstitutional. The same day, the Court ruled that the exclusion process which led to that detention was constitutional, in the case of *Korematsu v. United States*.

The Korematsu Court relied in part upon two earlier cases in which the Court rejected constitutional challenges to the curfew order as applied to American citizens. One case involved Gordon Hirabayashi, a student at the University of Washington until he turned himself in to the FBI because he refused to comply with the curfew order. He was convicted of that charge, later also convicted of failure to register for the draft, and ultimately served a federal prison sentence. The other case involved Minoru Yasui, who also turned himself into the FBI for violating the curfew order so that the constitutionality of the order could be tested. At the time, Yasui was a graduate of the law school at the University of Oregon, the first Japanese-American lawyer in Oregon, and a Second Lieutenant in the Army Reserve. When his conviction was upheld, he was sentenced to time served while he was in custody during the pendency of his case, and then was sent to the Minidoka Camp. At his sentencing hearing, Min Yasui told the judge that "as an American citizen, it was for...the preservation of [my fundamental civil rights] that I undertook this case, confident that the American judiciary would zealously defend those rights, war or no war, in order to preserve the fundamental

democratic doctrines of our nation and to perpetuate the eternal truths of America.” Even after his conviction and serving nine months in jail, Min Yasui continued to speak about his confidence in his country, and encouraged young Nisei in the camps to volunteer for military service after the military reversed its stance about accepting Nisei volunteers.

Much has been written about the history of Executive Order 9066 and the events that followed, including about the extraordinary nature of the mass segregation and relocation of over 100,000 people, most of whom were U.S. citizens, because of suspicions over their loyalty to the United States based upon their ethnic heritage. Today, some of the events of that time seem difficult to understand, but the country was also in a state of shock and fear from the events which began with the attack upon Pearl Harbor. Paradoxically, President Roosevelt’s words from ten years earlier, in his first inaugural address, seem far removed from the events of 1943, at least so far as those of Japanese descent were concerned. “The only thing we have to fear is fear itself,” Roosevelt had said. But, at least on the west coast, many feared anyone who carried even so much as a drop of Japanese blood. Governor Clark issued a statement declaring that: “It is no secret that there are many men and women in our state today who owe first allegiance to the governments of Germany, Italy, and Japan,” and “reports of actions that arouse suspicion of enemy activity should be promptly made by any citizen to the closest police officer.”

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Governor Clark

When it became apparent that the War Department was going forward with plans to move coastal ethnic Japanese into Idaho over his opposition, Governor Clark then said that he would not permit any effort by such persons to lease or purchase land in Idaho. (Before their forced relocation, some coastal ethnic Japanese who were told that they had to leave the exclusion area began looking to move further inland.) “I can’t see us sending Idaho boys out to fight the Japs in the Pacific,” he said, “and then let them come back to find Japs in their homes and on their farms.” One Idaho farm grange organization said in April of 1942 that its members were “heartily behind [Governor Clark] in his fight to preserve Idaho for the white people. ...If the trend toward leasing and sale of lands to the Japanese is not immediately stopped, Idaho will have the same Japanese problem that California has had. Japanese and Whites do not mix and commingle to the advantage of either race. Idaho should remain White and the Grange should join with the Governor in his fight to maintain it as such.” The *Independent-Enterprise* newspaper in Payette editorialized against any Japanese ownership of land in Idaho, writing that “they do not maintain our standard of living” and “if [the Japanese] lend anything to a state or a community we are at a loss to know what it is.”

There were few opposition voices at the time. In March 1942, the Twin Falls Chamber of Commerce unanimously resolved that if the “Japanese aliens” were permitted to enter Idaho, then they should be placed in camps and not be allowed to “roam loose” in the Magic Valley. U.S. Senator D. Worth Clark, the nephew of Governor Clark, reported that the Chamber’s views had been conveyed to the War Department. But Senator Clark also told the businessmen that “the bulk of the Japanese on the coast are citizens and we cannot push them around like they were slaves.” He told the chamber members, many of whom depended on the agriculture industry, that “a great many of the Japanese are excellent farmers” and maybe it would be

better to “put these aliens to work rather than locking them up.”

A letter writer by the name of A. Cornell sent an “Open Letter to Governor Clark,” published in the *Boise Valley Herald* newspaper. Cornell called the governor’s stance against any Japanese ownership of property in Idaho “one of the most un-American stands in the history of America,” and called on him to honor the rule of law to preserve “unprejudiced status for all citizens irrespective of race, language, color or ancestral conditions.” “Japanese-Americans are the victims of tax-levying,” just like everyone else, Cornell wrote, and “18 Japanese-Americans have been inducted into the armed services” in just his own community. “You, Governor Clark,” Cornell said, “are oath-bound and honor-bound to command the policing powers of the state to preserve constitutional rights to every citizen irrespective of who his ancestors might have been or what the color of their skin.”

On January 2, 1945, more than three years after it had been imposed, Exclusion Order No. 346 was rescinded in its entirety. The relocation camps began to shut down. Some of the internees left immediately. Others stayed for a period, having no place to return. Of those returning home, many lost their businesses, their homes, and their former lives were no longer recognizable. Some fortunate few had neighbors and friends who kept their homes, their businesses, their farms, and their belongings intact, awaiting their return.

The structural remains of the Minidoka Camp are now scattered across southern Idaho. Barracks were sold at auction and moved onto farms and into towns where they now house livestock, or families, or businesses. One barrack houses the Twin Falls Chapter of the Veterans of Foreign Wars. Most of the land was turned over to local farmers. A small portion of the original 950 acres of the camp has become a National Historic Site, administered by the National

Park Service. A group known as the Friends of Minidoka keeps alive the history of the camp and the history of those who were interned there. Each year, a pilgrimage is held to visit the site of the camp. On Bainbridge Island, Washington, a Japanese American Exclusion Memorial was erected to keep alive the history of the bleak March day in 1942 when all of the ethnic Japanese living on Bainbridge Island were forced to leave their homes. First, they were transported to the Manzanar camp in inland California, and then with many others to the Minidoka Camp. Only about half of those who left Bainbridge Island returned at war’s end.

Some who had been incarcerated in the Minidoka camp stayed in Idaho, or in eastern Oregon, even though their previous homes had been on the west coast of Oregon and Washington. Some had lost sons and brothers who had left to fight in the war and became casualties. (The Minidoka camp had the largest percentage of Nisei who voluntarily enlisted into the armed services of all of the relocation camps.) Most said little to family and friends about their experience – only as the succeeding generations set out to learn more about what had taken place with their parents and grandparents did the details of what had happened to the west coast ethnic Japanese become more widely known. Some of the most compelling writing about the events of those times is found in the research and publications of the late Dr. Bob Sims, a Boise State University professor who was a leading historian of the Japanese relocation experience.

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A. Cornell

Dillon Myer, the Director of the War Relocation Authority, testified before the Senate Judiciary Committee in 1949. He said that when the War Relocation Authority was shut down in 1946, he wrote in his report that *"Most of us who have been closely associated with the WRA program throughout its active life are deeply regretful that it ever had to be undertaken and fervently hopeful that it will never have to be repeated."* He concluded that *"My experience leads me to believe that if there had been less separation between Japanese-Americans and the total American community, if we had known those people before the war as well as we know them now, there would have been no question in 1942 about their loyalty, and the 'military necessity' for evacuation would never have been broached."*

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James Omura, the editor of a newspaper in Denver, Colorado that served the Japanese-American community, strongly spoke out against the forced relocation of the west coast ethnic Japanese, and supported those in the internment camps who chose to resist the draft. He was condemned by many, including many in the Japanese-American community, including the Japanese-American Citizens League. He continued to editorialize about the injustices of the relocation years, but he also wrote of the strength of what he hoped still remained intact underneath all of what he believed was wrong: *"We cannot condemn democracy for our present unhappy predicament. Democracy is not only a form of government, but it is also a spirit. If there is not spirit of democracy in our governmental leaders, we would not have democracy in action. Let us therefore not condemn democracy but the men who manipulate public affairs and the masses who sympathize and condone undemocratic ideals."*

Chase A. Clark was defeated in his bid for re-election to the governor's office in the fall of 1942 by C.A. Bottolfson, the same man he had defeated two years earlier. Governor Clark already had a distinguished career in the law and public service by that time. He came to Idaho in 1884 at the age of one, when his father, an engineer, arrived to work in construction of Eastern Idaho irrigation canals. His father later became mayor of Idaho Falls, a position that both Governor Clark and his older brother Barzilla Clark

(who also had served as governor) would later hold. Governor Clark began the study of law at the University of Michigan, but did not graduate, choosing instead to read for the Bar. He was admitted to practice in Idaho at age 21. In 1904 he began

practicing law in Mackay, Idaho, which was then an active mining region. Soon thereafter he was elected to the legislature. He served in the Mexican Border War, and in World War I.

After his war service, he returned first to Mackay and then to Idaho Falls where he resumed his law practice and political career. In January of 1943, after losing his race for re-election, he and his family were preparing to leave Boise and return to Idaho Falls. His daughter Bethine was then a high school friend of her husband-to-be Frank Church, and Carl Burke, who later managed Frank Church's campaigns and became a scion of the Boise law firm which bears his father's name. While finishing the household packing on moving day, Governor Clark received a call from the White House to let him know of his nomination by President Roosevelt to the federal bench in Idaho. Bethine Church later told Judge Winmill and staff attorney Dave Metcalf that she had overheard the conversation. At the end of the call, her father

said “you’d better be sure about this, because I’m calling the movers to tell them not to bother to bring the truck!”

Governor Clark was confirmed by the U.S. Senate and received his commission in March 1943. His commission certificate, along with others, hangs in Courtroom 3 of the Boise federal courthouse. Judge Clark presided, including over the draft resister cases of Minidoka internees, as the only federal district judge in Idaho until 1954, when a second judgeship was added. His judicial career lasted until 1966, when he died at the age of 83.

In the 75 years that have passed since these events first began, efforts have been made to right the injustices of the relocation and internment of the ethnic Japanese, both in the courts and through Congress. But the story of the Minidoka Internment Center, and of the young men who chose not to fight in the Armed Forces even as many of their friends and family did so, remains a cautionary history today.

