

# HAWAI'I'S KIBEI UNDER MARTIAL LAW: A HIDDEN CHAPTER IN THE HISTORY OF WORLD WAR II INTERNMENTS

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Only a few hours after the devastating Japanese attack on Pearl Harbor on December 7, 1941, the governor of the territory of Hawai'i, Joseph Poindexter, placed the entire population of the islands under martial law. He suspended the writ of habeas corpus and turned over his own powers as well as those normally exercised by the judicial officers of the territory to the U.S. Army commanding general, Walter C. Short. Fearing an imminent invasion by Japan as well as espionage and sabotage from Hawai'i's large ethnic Japanese population, Short announced a suspension of all normal constitutional protections. He also designated himself "military governor" and took charge of all aspects of governance of the territory, including closing

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the civilian courts and placing them under military control for purposes of private suits.

All civilian government operations were thus formally placed under the direction of the Office of the Military Governor (OMG). The army's chief legal officer in the territory, Colonel Thomas Green, assumed the title of "executive," and he was given wide discretion over nearly the whole range of governmental operations, including the supervision of policy implementation with respect to the population of Japanese descent. He exercised this control through a series of general orders that regulated virtually every aspect of civilian conduct.<sup>1</sup> The army created a military commission and established provost courts that would conduct trials of civilians charged with any misdemeanors, felonies, or violations of security regulations or general orders.

Only gradually, and piecemeal, over more than three-and-one-half years, were the elements of civilian governance restored. The army insisted on continuing its suspension of the writ of habeas corpus, however, almost until 1945—and even then, it reserved the authority to reinstitute martial law if it deemed war conditions warranted.<sup>2</sup> Never before in the nation's history had American citizens been held under a regime of martial law for so long.

The army thus took up the final responsibility for policies and their implementation to provide internal security for the islands, which were recognized as a site of vital strategic importance to any American military and naval operations in the Pacific. Of particular concern to both military and government

<sup>1</sup>A provision for the governor to place the territory under martial law in "case of rebellion or invasion or imminent danger thereof" was contained in the Hawaiian Organic Act of 1900, establishing the territory of Hawai'i. Governor Poindexter would later testify that he was reluctant to declare martial law and had done so only at the request of General Short, who had insisted it was "absolutely essential" to the defense of the islands. Poindexter cited "the large Japanese population we have in Hawaii" as the main reason for martial law. *Honolulu Star-Bulletin*, May 4, 1946, and Pearl Harbor Report, Part 23, p. 820, quoted in J. Garner Anthony, *Hawaii Under Army Rule* (Stanford, CA, 1955), 9.

<sup>2</sup>For an overview and full documentation of the army's control of civilian affairs and its administration of justice through the provost courts, see Harry N. Scheiber and Jane L. Scheiber, "Bayonets in Paradise: A Half Century Retrospect on Martial Law in Hawaii, 1941–1946," *University of Hawai'i Law Review* 19 (1997). See also Harry N. Scheiber and Jane L. Scheiber, "Constitutional Liberty in World War II: Army Rule and Martial Law in Hawaii, 1941–1946," *Western Legal History* 3:2 (Summer/Fall 1990). In 1955, J. Garner Anthony, a leading figure of the Hawai'i bar, published *Hawaii Under Army Rule*, a basic source on legal, constitutional, and political issues of that era. (Anthony served as attorney general of the civilian government of Hawai'i during part of the war, and he was involved as counsel in the successful challenge to the legality of the army's wartime regime in the islands, in the case of *Duncan v. Kahanamoku* in the Supreme Court of the United States.) See note 11 *infra*.

officials alike was Hawai'i's community of nearly 158,000 residents of Japanese ancestry (including some 37,000 aliens who, by law, could not become citizens). Constituting approximately 37 percent of the population of the islands, the *Nikkei*<sup>3</sup> were regarded as a potential security threat—as to both sabotage and espionage, and as to the possibility of their undermining defense in the event of a Japanese invasion. However, in stark contrast to the mainland, where the notorious policy of mass removal and internment was pursued in early 1942, in Hawai'i the army instituted only selective arrests and internments or other categories of incarceration.<sup>4</sup> Approximately 10,000 *Nikkei* residents in the islands, including all *Kibei*,<sup>5</sup> were identified and investigated, and hundreds of them were then picked up for interrogation and loyalty assessments by the military authorities. Since nearly 50,000 of the *Nikkei* were children under sixteen years of age, more than one in eleven ethnic Japanese adults were involved as subjects of security operations.<sup>6</sup>

<sup>3</sup>The term *Nikkei* refers to all persons of Japanese descent living outside Japan. Thus it includes both Japanese immigrants (*Issei*) and their descendants (*Nisei* and *Sansei*). See p. 7, *infra*.

<sup>4</sup>We are using *internment* to refer to incarceration, following detainment and hearings, in camps run by the army or the Department of Justice. Many of the Hawaiian *Nikkei* who were evacuated from Hawai'i in late 1942 and early 1943 were sent to the mainland relocation camps run by the War Relocation Authority; they were not internees (although some had just been paroled), they were not necessarily suspect, and indeed many of them accepted voluntary evacuation; nevertheless, they were, in fact, incarcerated. The historian Roger Daniels, the leading authority on the evacuation and internment, points out that "internment" of those alien enemies (however harsh a measure) was conducted under terms of a longstanding congressional enactment that provided for exactly the procedures and level of treatment given them in the evacuation (and in accord, largely, with international law). The citizens and dual citizens must, by contrast, be understood as being subjected to "incarceration," in violation of their rights, Daniels writes; they were prisoners, not "internees," taken into the centers and camps under what "was simply a lawless exercise of power by the executive branch," even though the policy that was followed was retroactively approved by Congress and the Supreme Court in the name of "military necessity." Daniels, "Incarceration of the Japanese Americans: A Sixty-Year Perspective," *The History Teacher* 35 (2002); see also Daniels, "Words Do Matter: A Note on Inappropriate Terminology and the Incarceration of Japanese Americans," in *Nikkei in the Pacific Northwest: Japanese Americans and Japanese Canadians in the Twentieth Century*, ed. Louis Fiset and Gail Nomura (Seattle, 2005), 183–207.

<sup>5</sup>See p. 4, *infra*. Office of the Chief of Military History, *United States Army Forces Middle Pacific and Predecessor Commands during World War II*, vol. 8, part 2, "Civil Affairs and Military Government, p. 16 (ms., microfilm copy in Hawai'i War Records Division, University of Hawai'i at Manoa Library, Honolulu).

<sup>6</sup>Estimates of number of children are from Samuel W. King article, *Honolulu Advertiser*, March 1941, quoted in Yukiko Kimura, *Issei: Japanese Immigrants in Hawaii* (Honolulu, 1988), 209.

Of the 10,000 so affected, approximately 2,000 were incarcerated, although not all were formally designated as internees. Roughly one-third of those who were sent to internment or relocation camps were American citizens, mostly Kibei—those persons of Japanese descent who were born on American soil and thus were American citizens, but who had been sent to Japan for at least part of their education.<sup>7</sup> Somewhat less than half of the persons taken into custody were held by the army as internees, under authority of martial law, losing their freedom for the duration of the war; others were evacuated to mainland relocation centers and/or internment camps in the formal status of “evacuees” or “excludees” rather than “internees.”<sup>8</sup> All of them lived behind barbed wire fences, patrolled by armed guards and under surveillance from guard towers, in tents or in barracks with few comforts. They were deprived of liberty, privacy, their normal livelihoods, and often unification with their families.<sup>9</sup>

The history of the Hawaiian Nikkei internments and evacuations, like the larger history of martial law and army rule in Hawai‘i during World War II, for many years was given little attention by historians or legal scholars.<sup>10</sup> This is not entirely surprising, given the momentous constitutional importance and social impact of the mass internments on the mainland’s West Coast, which was the focus of historical writing and legal analysis on internment policies. Indeed, the fact that there was no mass internment in Hawai‘i usually was mentioned by historians and legal scholars only to bolster the argument that mass internment on the mainland was unnecessary: the Hawai‘i experience proved, they contended, that ethnic Japanese posed no threat of subversion. (Ironically, these analyses sometimes failed to take account of the fact that in Hawai‘i, the entire civilian population was being controlled under martial law!)

<sup>7</sup>Commission on Wartime Relocation and Internment of Civilians, *Personal Justice Denied* (Washington, DC, 1982), ch. 11, [http://www.nps.gov/history/history/online\\_books/personal\\_justice\\_denied/chap11.htm](http://www.nps.gov/history/history/online_books/personal_justice_denied/chap11.htm); Gwenfread Allen, *Hawaii’s War Years* (Honolulu, 1950), 134.

<sup>8</sup>The difference between internment and evacuee status is explained below at pp. 32–33.

<sup>9</sup>The length of detention varied; some were incarcerated for the duration of the war, while others were released following hearings in 1943 and 1944. Some were permitted to leave the mainland centers in “released” status and to take up jobs and residence outside the western U.S. area under control of the Western Defense Command, where the army had conducted the mass exclusion program. Even those so released were kept under control of the WRA and the Hawaii Army Command, and they were not permitted to return to Hawai‘i until after the war’s end.

<sup>10</sup>See Scheiber and Scheiber, “Bayonets in Paradise,” 483–85.

Although the Japanese-American cases<sup>11</sup> have received sustained attention in the scholarly literature on the war, emergency powers, and military law, even researchers concerned with the constitutional history of World War II long showed almost no interest in the 1946 decision of the U.S. Supreme Court, *Duncan v. Kahanamoku*, which found army rule in wartime Hawai'i to have been illegal.<sup>12</sup> Indeed, so far as we have been able to tell, the case was long absent from any of the standard constitutional law case books.<sup>13</sup> Similarly, for forty years after publication of Gardner Anthony's book in 1955, little attention was given to the army's administration of civil affairs in Hawai'i under its martial law regime. Hence the internments of Nikkei in wartime Hawai'i long remained a subject in the dimness of historical memory. Although recent research studies have lifted the veil on the subject of wartime army rule and the internments in Hawai'i,<sup>14</sup> there are still aspects of security policy generally, and internments in particular, that remain in the shadows.

In the present study, we seek to cast new light on one such important aspect of army rule: the treatment of the Kibei of Hawai'i. The Kibei were regarded with particular suspicion by the military authorities and were therefore affected in some unique ways by the security policies of the army command and the intelligence services. It must be said at the outset that the army's record in governing the citizenry of Hawai'i, and its administration of justice in the provost courts, involved what appear in retrospect to have been unwarranted restrictions of liberty imposed on the entire population, not only on Nikkei.<sup>15</sup> Hence the sweeping suspension of constitutional rights of all citizens in Hawai'i under military rule forms the essential

<sup>11</sup>*Hirabayashi v. United States* 320 U.S. 81 (1943), *Korematsu v. United States* 323 U.S. 214 (1944), *Ex Parte Endo* 323 U.S. 283 (1944).

<sup>12</sup>*Duncan v. Kahanamoku* 327 U.S. 304 (1946).

<sup>13</sup>But see Elizabeth L. Hillman, Eugene R. Fidell, and Dwight H. Sullivan, eds., *Military Justice: Cases and Materials* (LexisNexis 2007 & Supp.) This book also contains an excerpt from Scheiber and Scheiber, "Bayonets in Paradise." The *Duncan* case is also discussed in William Wiecek, *The Birth of the Modern Constitution: The United States Supreme Court, 1941–1953*, vol. 12, *Holmes Devise History of the Supreme Court of the United States* (New York, 2006), which also cites Scheiber and Scheiber, "Bayonets in Paradise."

<sup>14</sup>See Scheiber and Scheiber, "Constitutional Liberty in World War II"; Scheiber and Scheiber, "Bayonets in Paradise"; Tetsuden Kashima, *Judgment without Trial: Japanese American Imprisonment during World War II* (Seattle, 2003); Gary Y. Okihiro, *Cane Fires: The Anti-Japanese Movement in Hawaii, 1865–1945* (Philadelphia, 1991); Greg Robinson, *A Tragedy of Democracy: Japanese Confinement in North America* (New York, 2009).

<sup>15</sup>This, of course, was also the view of the Supreme Court majority in *Duncan*.

background and context of the Kibei story.<sup>16</sup> Whatever the hardships and sacrifices suffered by other civilians, however, the Kibei faced exceptional challenges: From the start of the war until V-J Day, they lived in constant jeopardy of evacuation, internment, or both. In fact, about one in ten of them was detained at some point during the war, compared to less than one in one hundred of the rest of the population of Japanese descent as a whole.<sup>17</sup>

We also seek to provide fresh insights for an understanding of the military bureaucracy's mentality—and especially the attitudes that led the army command to resist all efforts to moderate its perpetuation of this extraordinary suspension of civil liberties. This regime would deny to Kibei citizens, in particular, even a moderate semblance of procedural fairness. The minority of Kibei who professed loyalty to Japan in security interviews invariably were formally interned, but with what degree of evidence that they actually posed a security threat is highly questionable. The majority of Kibei taken into custody and eventually sent to the mainland can reliably be deemed, we think, the victims of racial prejudice, an overzealous (or overly cautious) security officialdom, and, in the last part of the war, the army's overriding concern to head off any legal challenge to its martial law regime.

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### THE NIKKEI IN HAWAIIAN SOCIETY

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The issues posed for national security by the Japanese immigrants and their descendants in Hawai'i were very different from those on the American mainland, in part because there was less hostility toward them in the islands, in part because of the large numbers of ethnic Japanese in Hawai'i, and in part, as the military contended, because of the likelihood of an invasion by Japan and the opportunities for espionage and sabotage. Unlike in the continental United States, where people of Japanese descent comprised a miniscule proportion of the total population, they accounted for some 37 percent of the population in Hawai'i.<sup>18</sup> They made up a significant percentage of the plantation labor force; and thousands were numbered among

<sup>16</sup>This assessment of unfairness in the operation of army justice is given full attention, *inter alia*, in Scheiber and Scheiber, "Bayonets in Paradise"; and in Anthony, *Hawaii Under Army Rule*.

<sup>17</sup>See *infra*, pp. 88–89.

<sup>18</sup>By comparison, there were approximately 127,000 ethnic Japanese on the U.S. mainland out of a total population of 132 million, or less than 0.1 percent.

the skilled and semi-skilled working force in the shipyards (which were vital to U.S. Navy operations), in transportation and other public utilities operations, in postal facilities, and in many other civilian government offices. There was also a substantial Nikkei presence in the trades, in retail and wholesale commerce, in education, and in elected political office. Furthermore, ethnic Japanese comprised nearly the entirety of the fishing fleet workers—a matter of particular concern to the military, who feared that men in fishing vessels could spy on naval operations. The Nikkei community thus obviously played a vital role in the Hawaiian economy.<sup>19</sup>

By 1940, the Issei, or first generation—those born in Japan and ineligible for citizenship—numbered about 37,000 and thus constituted nearly one-fourth of the Japanese population in Hawai'i.<sup>20</sup> Most of them were older, having come to Hawai'i to work on the sugar plantations in the years before the Immigration Act of 1924, which excluded "all aliens ineligible to citizenship." The majority of them remained culturally Japanese, and some spoke little or no English.

Far more numerous, some 121,000, or more than 75 percent of Hawai'i's Nikkei population, were the children and grandchildren of the Issei—the Nisei, or second generation, and Sansei, or third generation.<sup>21</sup> By dint of their birth on American soil, they were citizens of the United States, although some of them had been registered with the Japanese consulate and thus held status as dual citizens under both U.S. and Japanese law.<sup>22</sup> Many of the Nisei children attended Japanese language schools after regular school hours—if for no other reason than to be able to communicate better with their families. However, these schools were regarded with suspicion by the army and navy

<sup>19</sup>For a discussion of Japanese occupational structure, see Andrew W. Lind, *Hawaii's Japanese: An Experiment in Democracy* (Princeton, 1946), 17–18, and Okihiro, *Cane Fires*, 239. For a discussion of the role of Nikkei in education, see Dorothy Ochiai Hazama and Jane Okamoto Komeiji, *Okage Sama De: The Japanese in Hawai'i, 1885–1985* (Honolulu, 1986), 104–106.

<sup>20</sup>The Naturalization Act of 1870 limited naturalization to whites and persons of African descent, thus excluding Asians. The U.S. Supreme Court in 1922 denied the petition of a Japanese-born U.S. resident, Takeo Ozawa, to become a citizen, ruling that he was not a white and upholding the law preventing the naturalization of Japanese. The ban remained in effect until 1952.

<sup>21</sup>The Sansei were too young to be considered a security risk.

<sup>22</sup>According to Hazama and Komeiji, the proportion of Japanese-American births registered with the Japanese consulate declined from two-thirds in the late 1920s to one-tenth by 1937. *Okage Sama De*, 119.

intelligence services and the FBI, all of which viewed them as centers of pro-Japanese indoctrination.<sup>23</sup>

Many of those who held dual citizenship were Kibei, a subset of the Nisei.<sup>24</sup> The word *Kibei* comes from *ki*, to return to, and *bei*, America. For economic or cultural reasons or both, the Kibeis' families had sent them back to Japan at some point in their younger years, to live temporarily with grandparents or other relatives (the duration of their residency in Japan varying considerably) and to receive schooling there. They had then returned to Hawai'i to rejoin their families and resume their lives in American society as best they could, some speaking little English and many of them ostracized by the larger group of much more Americanized Nisei.<sup>25</sup> A fact that would become important to the army's assessments of Kibei loyalty to the United States was that public education in Japan included both emperor worship and military training, and a small fraction of the Kibei actually had served in the military there.

The total number of Kibei in Hawai'i was estimated by OMG officers in November 1943 to be "over 3,000,"<sup>26</sup> but

<sup>23</sup>In 1940, some 40,000 children, or 84 percent of ethnic Japanese children in the public schools, studied in 175 Japanese language schools after regular school hours. *Ibid.*, 119, 144.

<sup>24</sup>We have been unable to ascertain the exact number of Kibei who may have returned to Hawai'i from Japan and then undertaken the prescribed legal measures for expatriation through formal renunciation of the Japanese citizenship that had attached to them either by their registration in Japanese schools or by registration at birth with the Japanese consulate in Hawai'i. A memorandum, "Factors to Be Considered in Investigations of Japanese Subjects," in file 5605, Hawaii War Records Division Collection, University of Hawai'i Library (hereinafter HWRD), a document apparently prepared for Naval Intelligence, dated February 25, 1943, refers to the fact that "expatriation was a lengthy, complicated process" so that "sheer ignorance and apathy" might well explain a Kibei's maintaining dual citizenship status.

<sup>25</sup>See Kinuko Maehara, "To Okinawa and Back Again: Okinawan Kibei Nisei Identity in Hawaii" (M.S. thesis, University of Hawai'i, 2005). Although it pertains mainly to mainland Nikkei, see also Dorothy Swaine Thomas, "Some Social Aspects of Japanese-American Demography," *Proceedings of the American Philosophical Society* 94 (1950), 459-80, for an interesting discussion of social issues. See note 27, *infra*, for the results of Thomas' scholarship and of the University of California project she directed during the war.

<sup>26</sup>Maj. Louis F. Springer, memorandum, "Interned American Citizens of Japanese Ancestry," 31 Dec. 1943, RG 494, box 39, National Archives.

other estimates run as high as 5,000.<sup>27</sup> Probably the great majority of them were male.<sup>28</sup> Despite their small numbers, they were regarded by both the FBI and the army and navy intelligence services as likely harboring disloyal sentiments and thus representing a significant danger to internal security.<sup>29</sup> For that reason, the Kibei would feel the full impact of martial law, including the dreaded fate of incarceration as internees in Hawai'i under jurisdiction of the military, or removal to the mainland in custody of first the army and then the War Relocation Authority (WRA), which ran the relocation centers.<sup>30</sup>

<sup>27</sup>It is difficult to know with any certainty the total number of Kibei, as they were not distinguished from other Nisei in the census records. The Office of the Chief of Military History estimates the number to be 5,000. Office of the Chief of Military History, *United States Army Forces Middle Pacific and Predecessor Commands during World War II*, vol. 10, part 8, Appendix 1, "Plans and Measures for the Control of Certain Elements of the Population," p. 5 (ms., microfilm copy in Hawai'i War Records Division, University of Hawai'i at Manoa Library, Honolulu). Extrapolating from data of a survey administered to a sample of internees in WRA centers, Eric Muller estimates that 13 percent of mainland Nisei were Kibei. Eric Muller, *American Inquisition: The Hunt for Japanese American Disloyalty in World War II* (Chapel Hill, NC, 2007), 153. Similarly, Dorothy Swaine Thomas estimated one in seven Nisei on the West Coast of the mainland was a Kibei. Thomas, *The Salvage* (Berkeley, CA, 1952), 16. One widely cited scholar, Andrew Lind, stated their numbers in Hawai'i to be six hundred, but this figure seems implausible. Lind, *Hawaii's Japanese*, 183. See also Robert L. Shivers, *Cooperation of the Various Racial Groups with Each Other and with the Constituted Authorities Before and After December 7, 1941* (Honolulu, 1946), 2.

<sup>28</sup>The references to Kibei in the archival materials are primarily to males, although some families did join the Kibei in the mainland camps. Our analysis of the WRA database, "Japanese-American Internee Data File, 1942-1946, Record Group 210" (available from the National Archives at <http://www.archives.gov>) shows almost 10 percent of the Hawaiian Kibei who were in the WRA camps were female, some having received as many as eleven years of schooling in Japan. Some of them were single women, but most of them were married. The most common occupations for the women were teachers, seamstresses, clerks, and maids. The analysis was performed by selecting from the database all persons born in Hawai'i whose last known address was Hawai'i and who had received more than one year of schooling in Japan.

<sup>29</sup>See *infra*, text at notes 142-44.

<sup>30</sup>The War Relocation Authority was created by President Roosevelt on March 18, 1942 to "provide for the removal from designated areas of persons whose removal is necessary in the interests of national security." Executive Order 9102, quoted in Dillon S. Myer, *Uprooted Americans: The Japanese Americans and the War Relocation Authority during World War II* (Tucson, 1971), Appendix C, 309. Initially designed for the evacuees from the West Coast of the mainland, the WRA subsequently received in its centers Nikkei from Hawai'i who were sent to the mainland as evacuees and excludées, as well as alien internees who were released from Department of Justice internment camps.

The diversity in legal status of citizenship within the Nikkei community in Hawai'i was not the only dimension of subgroup pluralism, for there were also significant social and cultural elements that posed some perplexities for the military and other officials charged with shaping security policy. There was a social distance, often a dramatic gulf, between the generations—especially between the Japanese-speaking Issei and the Nisei, who used mainly English in their daily activities and who were taking advantage of educational opportunities up to the college and university level, thereby already establishing a much-noted foothold in the professions, in the commercial sector, and in politics.<sup>31</sup> Some of the Kibei, however, were fully literate only in Japanese, not even having command of the “pidgin” that was still widely spoken in the Asian-American and Native Hawaiian communities in the islands.<sup>32</sup>

In addition, there were significant distinctions of social class. Poorly educated plantation workers, including large numbers of immigrants who had never learned English, lived very different lives from those who resided in the more urban areas. They inhabited a different social universe from the journalists, teachers, priests, truck farm owner-operators, and successful business people in the Nikkei communities in Honolulu, Hilo, or even the busier rural market towns that were connected in daily economic activity to urban nodes. Class distinctions were often compounded by affiliations based on region of origin in Japan, with the Okinawans especially being treated as a separate group.<sup>33</sup> All of these factors had to be considered by the military and intelligence officers responsible for security.

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### PRE-WAR PLANS FOR HAWAII'S NIKKEI

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The idea that the ethnic Japanese population of Hawai'i was a potential threat to security had surfaced long before

<sup>31</sup>Americans of Japanese ancestry comprised 24.9 percent of registered voters and constituted 19 percent of the teachers in the territory of Hawai'i in 1938. Ernest K. Wakukawa, *A History of the Japanese People in Hawaii* (Honolulu, 1938), 368, 370.

<sup>32</sup>Intelligence officers took note of this in memorandum, “Factors to Be Considered,” cited in n. 24, *supra*.

<sup>33</sup>See Hazama and Komeiji, *Okage Sama De*, 73; Kimura, *Issei: Japanese Immigrants in Hawaii*; and Yasutaro Soga, *Life Behind Barbed Wire: The World War II Internment Memoirs of a Hawaii Issei* (Honolulu, 2008), *passim*. See also University of Hawai'i, Ethnic Studies Oral History Project, *Uchinanchu: An Oral History of Okinawans in Hawaii* (Honolulu, 1981).

the war broke out. In fact, it had long been an explicit premise of military planning and intelligence efforts in Hawai'i. In 1917, a naval officer in Pearl Harbor gave voice to a theme that would dominate U.S. military thinking right through the early years of World War II. The "greatest menace to our security," he said, "is the large proportion of the population of foreign birth who are very liable to turn against this country."<sup>34</sup> A comprehensive report, "The Japanese Situation in Relation to Our Military Problem," written by the commander of the army's Hawai'i Department in 1922, cited similar themes.<sup>35</sup>

By the 1920s, the army was recommending that martial law be imposed for the defense of Oahu in case of a war with Japan, and the military and naval intelligence services were cooperating with the FBI to undertake a program of surveillance and to plan measures to be taken immediately against the population of Japanese descent in such an eventuality.<sup>36</sup> In 1932, the admiral commanding U.S. naval forces in Hawai'i asserted in a public address that residents of Japanese ancestry were "unassimilable," so that in the event of war with any "Oriental power . . . their loyalty could not be relied upon." Because of the numbers of Nikkei in Hawai'i's population, he declared his support for a commission government by appointed military and civilian officers, in place of the existing institutions of self-government.<sup>37</sup>

As tensions with Japan grew worse throughout the 1930s and the Hawaiian Islands became an increasingly important strategic base for the United States, President Franklin D. Roosevelt himself, many members of Congress, and the top army and navy brass became increasingly concerned with the possibility of espionage and sabotage by Nikkei residents. This was a great danger, it was argued, because they could "blend in" so readily in the daily life of the islands' multiracial civilian society. General Short, in particular, "felt the most imminent danger to the army was the danger of sabotage, because of the known presence of large numbers of alien Japanese in Honolulu." Ironically, among the measures he took to act against sabotage was "bunching the

<sup>34</sup>Quoted in Michael Slackman, *Target: Pearl Harbor* (Honolulu, 1950), 35.

<sup>35</sup>Gary Y. Okihiro, *Cane Fires*, 118–21.

<sup>36</sup>Okihiro, *Cane Fires*, 124–26; Greg Robinson, *By Order of the President: FDR and the Internment of Japanese Americans* (Cambridge, MA, 2001), 54–55.

<sup>37</sup>Rear Admiral Yates Stirling, Jr., statement to a federal commission on law enforcement in the Hawaiian Islands, 1932, quoted in Wakukawa, *A History of the Japanese People in Hawaii*, 362–64.

planes on the various fields on the Island, close together, so that they might be carefully guarded against possible subversive action by Japanese agents."<sup>38</sup> This action, of course, made the planes an easy target for the Japanese bombers on December 7.

The Office of Military Intelligence (OMI) and the Office of Naval Intelligence (ONI) intensified their surveillance programs in the years leading up to the war, and in 1939 the FBI sent Robert L. Shivers to Hawai'i as special agent in charge of the Honolulu FBI office. Shivers received from the OMI and ONI in early 1940 "the names and addresses of all persons whom they considered dangerous to the internal security of these islands and who should be picked up for custodial detention in the event of war."<sup>39</sup> The three agencies continued to cooperate in the months ahead, with the FBI investigating all names submitted by army and navy intelligence and preparing custodial detention memoranda where warranted.<sup>40</sup>

Visiting Hawaii in August 1941, Assistant Attorney General Norman M. Littell reported, "The head of the FBI, military authorities, lawyers, judges and others confirmed that the great mass of the Japanese would not go back to Japan if they could; are fearful of Japanese intervention; and that only a small minority of them, who are being watched and are allegedly detectable, would be Japanese fifth columnists

<sup>38</sup>Report by the secretary of the navy to the president, exhibit 49, U.S. Congress Joint Committee on Pearl Harbor Attack, Hearings, part 24, 1750. The order to group the planes was issued on November 27, 1941. W.F. Craven and J.L. Cate, eds., *The Army Air Forces during World War II: Plans and Early Operations, January 1939–August 1942*, vol. 1 (Chicago, 1948), 194; Samuel Eliot Morison, *History of United States Naval Operations in World War II: The Rising Sun in the Pacific, 1931–April 1942*, vol. 3 (1947; Urbana, IL, 2002), 123.

<sup>39</sup>Shivers to FBI Director Hoover, 4 Dec. 1941, copy in the Japanese Cultural Center of Hawai'i, Honolulu (hereinafter JCCH), also available online at <http://www.internment.archives.com/archimg/d00254p001.png>.

<sup>40</sup>Ibid. They were also given support in the investigatory effort by the "espionage bureau" of the Honolulu police, organized in January 1941 and composed of four Japanese-speaking officers who investigated security cases referred by the FBI. According to the bureau's chief (Capt. John A. Burns, then head of the vice squad, who in later years was to be elected governor of Hawai'i), Shivers requested that the police provide this assistance since the FBI office was short of personnel and funds sufficient to conduct all the investigatory work required. Their focus was to identify Nikkei and others who might pose a danger of conducting sabotage in the event of war with Japan. Stuart G. Brown, *John A. Burns Oral History Project, 1975–1976* (n.d., privately printed).



In a roundup of Hawaiian Japanese after the attack on Pearl Harbor, these men waited to be fingerprinted by the FBI at an immigration station in Honolulu, February 17, 1942. (Courtesy of the National Archives)

or representatives."<sup>41</sup> Curtis B. Munson, an undercover agent whose report went to the White House, reached a similar conclusion in his report on Hawai'i just days before the Pearl Harbor attack. He stated that there was no "local Japanese" problem in Hawai'i. Most of the Issei were loyal to the United States and would be quiet should war break out, he reported. Munson added that 98 percent of the Nisei would be loyal, according to local FBI agents. He acknowledged that a few thousand aliens and citizens might be disloyal, but those who could be considered dangerous constituted a small fraction of that number and were known to the authorities, who could immediately apprehend them. He concluded that even if the Japanese fleet were to appear off Hawai'i, the "big majority

<sup>41</sup>Quoted in Kashima, *Judgment without Trial*, 69.

[of ethnic Japanese in Hawai'i] . . . would be neutral or even actively loyal."<sup>42</sup>

By December 1, 1941, plans and arrangements had been completed for the apprehension of Japanese aliens as well as German and Italian aliens in the territory of Hawai'i in the event of war.<sup>43</sup> In a memo written just three days before the Pearl Harbor attack, FBI bureau chief Shivers outlined the plan that the three intelligence agencies had agreed on and that would soon be put into action:

Since there are over 41,000 Japanese aliens in the Territory of Hawaii, it is obvious that the War Department would not and could not seize approximately a tenth of the population of the Hawaiian Islands and place that number in concentration camps. Furthermore, there are approximately 115,000 American citizens of Japanese ancestry which makes a total of, in round figures, 155,000 people in the Territory of Hawaii of Japanese ancestry against a total population of 430,000. Therefore the seizure of Japanese aliens in Hawaii is a matter of *selectivity*. . . .

[I]t is the considered opinion of this office and the Office of Military Intelligence in Hawaii that if the

<sup>42</sup>Curtis B. Munson, "Report on the Hawaiian Islands," p. 17, attached to memorandum, John Franklin Carter to FDR, 8 Dec. 1941, Carter file, Franklin D. Roosevelt Library, Hyde Park, N.Y. In a parallel report on the Japanese on the West Coast of the United States, Munson noted that the Nisei were 90 to 98 percent "loyal to the United States if the Japanese-educated element of the *Kibei* is excluded. . . . The *Kibei* are considered the most dangerous element and closer to the *Issei* with special reference to those who received their early education in Japan. It must be noted, however, that many of those who visited Japan subsequent to their early American education come back with added loyalty to the United States. In fact it is a saying that all a Nisei needs is a trip to Japan to make a loyal American out of him. The American educated Japanese is a boor in Japan and treated as a foreigner." Curtis B. Munson, "Japanese on the West Coast," Nov. 7, 1941, RG 210, box 573, National Archives, Committee on Wartime Relocation and Internment of Civilians, reel 3, reproduced at <http://home.comcast.net/~chtongyu/internment/generations.html>. Munson was a Canadian citizen recruited by the Washington journalist John Franklin Carter, who was charged by the president to employ a network of "amateur sleuths, private eyes and personal agents" outside the established intelligence organizations. Munson "provided data on the Vichy Fifth Column in Martinique" before being sent to the West Coast and Hawai'i to report on possible threats from the ethnic Japanese population. Jeffrey M. Dorwart, *Conflict of Duty: The U.S. Navy's Intelligence Dilemma, 1919-1945* (Annapolis, MD, 1983), 162, 168.

<sup>43</sup>Shivers, memorandum to FBI Director Hoover, 17 Dec. 1941. Copy in JCCH. Plans included organizing thirteen squads of FBI agents, military intelligence officers, and police officers to effect the apprehension of those on the detention list. The squads averaged three men each, augmented as necessary.

leadership of the Japanese alien population is seized, that, of itself, will break the backbone of any Japanese alien resistance. . . . Those aliens who have been listed for custodial detention comprise the alien leadership in Hawaii in every branch of alien activity, namely: businessmen, consular agents, Japanese language school teachers and principals, Buddhist and Shinto priests, and others of no particular affiliation who by reason of their extreme nationalistic sentiments would be a danger to our security as well as others who have seen Japanese military service.<sup>44</sup>

In designing these plans, Shivers went on, the commanding general of the Hawaiian Department and military intelligence sought "to preserve and maintain the respect of the alien populace in the constituted authorities and to maintain the loyalty of the vast majority of the second and third generation Japanese without alienating this group."<sup>45</sup>

Thus, before the war actually began, those on the scene in Hawai'i who were responsible for the security of the islands recognized the loyalty of the majority of the ethnic Japanese population, and they had arranged to ensure that loyalty by apprehending and detaining the Japanese leadership—whether or not there was any evidence of disloyalty on the part of these individuals.

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## INITIAL SECURITY MEASURES AND INTERNMENTS

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Even before the United States had formally declared war, the army and the FBI, working in cooperation with the local police, implemented the plan outlined days earlier. They conducted a series of sweeps in the afternoon and evening of December 7, and without presenting any charges or explanations or, in some cases, even warrants, they moved to arrest the persons on the

<sup>44</sup>Shivers to FBI Director Hoover, 4 Dec. 1941. Italics added. Shivers' numbers differ slightly from official census data.

<sup>45</sup>Ibid.

FBI custodial detention list.<sup>46</sup> Frequently suspects were not even given time to say goodbye to their families or to secure warm clothing. Yasutaro Soga, the editor of a Japanese-language newspaper, recounts his arrest:

While the evening dusk was gathering, a car with blue lights suddenly stopped in front of our yard. My son, Shigeo, went to the entrance hall to meet the visitors, three military policemen. They were six feet tall and young and wore MP armbands. They said they were taking me to the Immigration Office. I immediately answered, "All right." . . . I was escorted out of the house. My wife came with me as far as the entrance hall and whispered, "Please be careful not to catch a cold." I tried to say something but could not utter a word and silently went to the car. Two of the MPs sat in the front, and one sat beside me in the back with a pistol in his hand.<sup>47</sup>

Similar stories can be found in an increasingly rich literature. For example, the grandson of a Kibei, Kubota, who owned a general store in a sugar plantation village on Oahu's north shore, writes,

It was Monday night, the day after Pearl Harbor, and there was a rattling knock at the front door. Two FBI agents presented themselves, showed identification, and took my grandfather in for questioning in Honolulu. No one knew what had happened or what was wrong. . . . My grandfather was suspected of espionage, of communicating with offshore Japanese submarines launched from the attack fleet days before war began. . . . Kubota was known to have sponsored and harbored Japanese nationals in his own home. He had a radio. He had wholesale access to firearms. Circumstances and an undertone of racial resentment had combined with wartime hysteria in the aftermath of the tragic

<sup>46</sup>According to Kashima, the Justice Department urged the War Department to resubmit warrants for the secretary of war's signature "in order that there may be no question raised as to the validity of the arrests." Townsend to Amberg, special assistant to secretary of war, 9 Dec. 1941, quoted in Kashima, *Judgment without Trial*, 73. Because the provost marshal was unable to provide sufficient transportation, Shivers directed the FBI agents in some cases to use their personal automobiles. On Maui, Moloka'i, and Lana'i, where there were no FBI agents, the apprehensions were handled by military intelligence (G2). Shivers to FBI Director Hoover, 17 Dec. 1941.

<sup>47</sup>Soga, *Life Behind Barbed Wire*, 25.

naval battle to cast suspicion on the loyalties of my grandfather and all other Japanese Americans. The FBI reached out and pulled hundreds of them in for questioning in dragnets cast throughout the West Coast and Hawai'i.

My grandfather was lucky, he'd be let go after only a few days. But others were not as fortunate. . . .<sup>48</sup>

In many cases, the head of the family simply disappeared, and several weeks passed before his family learned he had been interned; in other cases, children were left unattended when both parents were interned.<sup>49</sup> The sweep teams searched homes and business properties; they regarded the possession of Japanese flags, patriotic literature, swords or other Japanese treasures, or even board games in the Japanese language as ample evidence to detain the owners. Firearms and radio sets were confiscated.<sup>50</sup>

Apprehended in this initial sweep operation, as had been planned, were Japanese priests, officers of community social and charitable organizations, Japanese-language school teachers and principals (some of whom were Kibei), journalists, and others who held influential positions.<sup>51</sup> Included were most of the 234 Japanese consular agents—"individuals of some influence in their local Japanese circles. . . . Generally their duties consisted of aiding Japanese individuals, taking the Japanese census, and filling out many forms required by the Japanese government of its Japanese nationals when they desired to transfer properties, claim estates in Japan, and other similar activities. They also aided in the registering of Japanese babies with

<sup>48</sup>Garrett Hongo, *Volcano: A Memoir* (New York 1995), excerpted online at [http://www.english.illinois.edu/maps/poets/g\\_l/hongo/volcano.htm](http://www.english.illinois.edu/maps/poets/g_l/hongo/volcano.htm).

<sup>49</sup>Allen, *Hawaii's War Years*, 137.

<sup>50</sup>Soon after December 7, the military governor formally banned possession by Nikkei of all such items, and searches of homes and business properties continued throughout the war years. The provost courts tried cases involving offenses under these prohibitions. Colonel George Bicknell, "Security Measures in Hawaii during World War II" (typescript), copy in Hawaii War Records Depository, University of Hawai'i Library. See also Okihiro, *Cane Fires*, 210-14. (The board games may still be seen in the RG 494, National Archives files of provost court evidentiary materials.)

<sup>51</sup>As of December 4, the detention list included 338 Japanese aliens and nine American citizens of Japanese ancestry. Shivers to FBI Director Hoover, 4 Dec. 1941.

the Consulate."<sup>52</sup> Ironically, some of the individuals connected with the Japanese consulate, including several Christian ministers, had been helping dual citizens to expatriate from Japan.<sup>53</sup> Targeting the elite of the Nikkei community was explicitly designed as a way of undermining the strength of leadership in the various sectors of community life, and not coincidentally it had an intimidating effect on others because of the prominence of the people targeted. The FBI, local police, and military patrols also picked up specific persons, including a small number of German-Americans and Italian-Americans, who were not necessarily leaders of any sort but had been identified by investigations conducted before December 1941 as possibly holding disloyal views or as engaged in suspect activities.<sup>54</sup> Some persons taken into custody in the initial sweeps were, very simply, the victims of undocumented rumor or gossip that the army command decided to credit rather than risk overlooking a serious potential danger.<sup>55</sup>

Immediately after Congress declared war on Japan, President Roosevelt issued proclamations that designated as "alien enemies" residents who were Japanese citizens. The constitutional and legal rights that these alien residents had enjoyed, as to both person and property, were suspended. On December 7 and 8, the president issued Proclamations 2525, 2526, and 2527, authorizing the attorney general and the secretary of war to take into custody all enemy aliens deemed dangerous to the safety of the United States. The FBI and the army command in Hawai'i

<sup>52</sup>"Summary of FBI Efforts to Combat Activities Inimical to the United States in the Hawaiian Islands," January 5, 1942. RG 65 Hawaiian Islands, National Archives, 7. There initially was a controversy in the government over the consular agents. The federal district attorney, Angus Taylor, wanted them prosecuted en masse for violation of the foreign agents registration law, whereas the army and FBI resisted, only to intern them later. Taylor and Shivers discussed this history in testimony before the Roberts Commission. Shivers reported in his Roberts Commission testimony, as in his communications with FBI headquarters in Washington—and it was widely acknowledged—that before the Pearl Harbor attack the Japanese consulate had coordinated what in peacetime could be termed merely *intelligence gathering* (even though it involved observations of movements and defenses that any member of the public might see) but in war conditions would be termed instead *espionage*.

<sup>53</sup>Reverend Yamada, "Struggling within a Struggle" (memoir of a Nisei Protestant minister's activities on Maui during the war period), 5–6, in JERS files, reel 171, Bancroft Library, University of California, Berkeley.

<sup>54</sup>Karl R. Bendetson to assistant chief of staff, memorandum, "Evacuation of Dangerous Enemy Aliens from Hawaii," 30 Jan. 1942, in *American Concentration Camps: A Documentary History of the Relocation and Incarceration of Japanese Americans, 1942–1945*, vol. 8, *Japanese of Hawaii*, ed. Roger Daniels (New York, 1989), n.p.

<sup>55</sup>See Emmons testimony, *infra*, p. 92.

interpreted this authorization as applicable, ad hoc, not only to aliens but to dual citizens as well, including, of course, all Kibei and other ethnic Japanese who were dual citizens. The authorization was subsequently formally amended specifically to include dual citizens.<sup>56</sup> Within a matter of days, the OMG and its legal staff had overseen the arrest and internment of citizens, including Kibei, treating them identically as they did alien enemies, as a prerogative that they exercised under the authority of martial law.<sup>57</sup>

According to one observer, a Nisei Protestant minister on Maui, the enemy aliens who were interned were "resigned to the fact that it was war, and they could not help themselves as enemies of the United States." On the whole, he wrote, they were grateful for the fair treatment they received. However, the citizens and the younger set of aliens, this observer continued, were

quite resentful. Several of them asked why they were interned, what charges were brought against them. The American spirit of freedom, equality, of the right for a trial by jury, etc., gave them no peace of mind. The war situation was to them no excuse for internment without due process of law.<sup>58</sup>

Such detention of Nisei citizens, especially the Kibei, was endorsed by Lt. Commander Kenneth Ringle of the Office of Naval Intelligence, a leading navy expert on the mainland Nikkei community. Asked to review the Munson Report, Ringle expressed his concurrence but went further in his suspicions of the Kibei, at least those on the West Coast:

[T]here are among the Japanese both alien and United States citizens, certain individuals, *either deliberately*

<sup>56</sup>Adams (War Department) to commanding general, Fort Shafter, radiogram, 11 Dec. 1941, U.S. District Court case no. 730, exhibit C, RG 21, National Archives, San Bruno, CA.

<sup>57</sup>By December 9, those arrested included 345 Issei, 22 Nisei, 74 German nationals, 11 Italian nationals, 19 citizens of German ancestry, and 2 citizens of Italian ancestry (Kashima, *Judgment without Trial*, 72). An Alien Enemy Property Administrator's Office was established, taking charge in 1942 of the holding and disposition of millions of dollars in land, businesses, and other property taken from the 120,000 who were sent away to the internment camps. (Myer, *Uprooted Americans*, 245-56.) In Hawai'i, because in most cases the families of those who were taken into custody or interned remained behind, so that they could maintain their homes and take care of possessions and often of businesses, the seizures of alien enemy property were of limited scope—though of great consequence, no doubt, to the few individuals who were affected.

<sup>58</sup>Reverend Yamada, "Struggling within a Struggle," 7.

*placed by the Japanese government or actuated by a fanatical loyalty to that country who would act as saboteurs or agents.* This number is estimated to be less than three per cent of the total, or about 300 in the entire United States. . . .

[T]he most potentially dangerous element of all are those American citizens of Japanese ancestry who have spent the formative years of their lives, from 10 to 20, in Japan and have returned to the United States to claim their legal American citizenship within the last few years. These people are essentially and inherently Japanese and may have been deliberately sent back to the United States by the Japanese government to act as agents. In spite of their legal citizenship and the protection afforded them by the Bill of Rights, they should be looked upon as enemy aliens and many of them placed in custodial detention.<sup>59</sup>

In fact, the majority of the Nikkei eventually interned by the army in Hawai'i were taken into custody in this initial period after the Pearl Harbor attack. Whereas new arrests and internments, especially of the Issei, were relatively fewer after that first effort, the Kibei were an exception to the general pattern: much later in the war, they would be subjected to comprehensive surveillance and a new wave of security measures, including evacuation to the mainland (a policy that involved removal and transfer of many Kibei already being held in an internment camp on Oahu). Indeed, this new wave of actions against them did not even begin until several months after the June 1942 Battle of Midway, when U.S. forces decisively destroyed Japan's capacity to bring its forces within range to invade the Hawaiian Islands. Yet the allegation that the Kibei posed a serious security threat did not lose force after that event—and it continued to be a working premise of the army command even after the combat zone had shifted westward thousands of miles away from Hawai'i.<sup>60</sup>

On December 17, ten days after the attack on Pearl Harbor, Lt. General Delos C. Emmons replaced the disgraced General Short as commanding general of the Hawaiian Department. He thus became responsible for the defense of the territory as well as the oversight of martial law. It would soon become

<sup>59</sup>U.S. Department of the Navy, Ringle Report on Japanese Internment, serial no. 01742316 30, December 1941, <http://www.history.navy.mil/library/online/jap%20intern.htm> (emphasis added). For a discussion of Ringle's background and activities, see Roger Daniels, *Asian America: Chinese and Japanese in the United States since 1850* (Seattle, 1988), 183, 210–13.

<sup>60</sup>See *infra*, text at notes 97 and 98.

apparent that Emmons did not share the views of President Roosevelt or some of his top military advisers in Washington regarding the loyalty of those of Japanese ancestry. In his first public statement to the people of Hawai'i, published in the *Honolulu Star Bulletin* on December 22, 1941, he deplored the "fear and suspicion on the part of employers" that had led to the dismissal of Japanese workers. He warned that "additional investigation and apprehensions will be made and possibly additional suspects will be placed in custodial detention," but "these people are not prisoners of war and will not be treated as such. . . . There is no intention on the part of the Federal authorities to operate mass concentration camps. No person, be he citizen or alien, need worry, provided he is not connected with subversive elements."<sup>61</sup>

Yet it was precisely "concentration camps" that were being considered in Washington.<sup>62</sup> As early as December 19, Secretary of the Navy Frank Knox urged that both aliens and citizens of Japanese ancestry should be removed from Oahu. Secretary of War Stimson, however, recommended that only enemy aliens be removed, and President Roosevelt concurred.<sup>63</sup> On January 10, at Knox's urging, the War Department queried Emmons about the "practicability of concentration of local Japanese nationals" on an island other than Oahu.<sup>64</sup> Emmons replied that "[m]ost families contain alien parents or grandparents mixed with young citizens and numerous small children"; that "there are as many dangerous elements among the [Japanese-Ameri-

<sup>61</sup>*Honolulu Star Bulletin*, Dec. 22, 1941, quoted in Yukiko Kimura, *Issei: Japanese Immigrants in Hawaii* (Honolulu, 1988), 222; Also, *Honolulu Advertiser*, Dec. 22, 1941, pp. 1 and 6, quoted in CWRIC, *Personal Justice Denied*.

<sup>62</sup>See text at notes 73, 100, and 105. The term *concentration camp* was generally used by the military and the administration in Washington in the prewar years and during the war to connote what later came to be called *internment camps*. Beginning with the later years of the war, the term has taken on a more specific association with the Nazi forced labor and death camps. Secretary of the Interior Ickes commented in 1946, "As a member of President Roosevelt's administration, I saw the United States Army give way to mass hysteria over the Japanese. . . . Crowded into cars like cattle, these hapless people were hurried away to hastily constructed and thoroughly inadequate concentration camps, with soldiers with nervous muskets on guard, in the great American desert. We gave the fancy name of 'relocation centers' to these dust bowls, but they were concentration camps nonetheless." *Washington Evening Star*, Sept. 23, 1946. NB: In his opinion for the Ninth Circuit in the *Abo* case, Judge Denman specifically compared the layout of the facilities at the Tule Lake camp, including the gun turrets and barbed wire, to the Nazi camps. *McGrath v. Abo et al.*, 186F.2d 766 (1951).

<sup>63</sup>CWRIC, *Personal Justice Denied*, n.p.; Kashima, *Judgment without Trial*, 76.

<sup>64</sup>Provost Marshal General's Office to commanding general, Hawaiian Dept., radiogram, 10 Jan. 1942, in Daniels, ed., *American Concentration Camps*.

can] *citizens* as among the aliens"; and that only "wholesale evacuation of all Japanese and many others" could protect the flow of information. Such an evacuation would be "dangerous and highly impractical" and would result in shortages of shipping and of labor. He further stated, "Any evacuation plan would have serious repercussions on loyalty of citizens of Japanese ancestry." If the War Department nevertheless decided on evacuation, Emmons urged that it be to the mainland.<sup>65</sup>

General Emmons did not ignore or rebuff entirely, however, the pressures for special measures against the ethnic Japanese population. Concerning the fate of the four hundred Nikkei already being held as internees by the army only five weeks after the air assault, Emmons requested that his authority to remove them to the mainland "should be approved at once and broadened to include any suspected Japanese who are now in confinement or who may be apprehended in the future."<sup>66</sup>

On January 17, Emmons was granted this authorization,<sup>67</sup> but still he dragged his feet. While conceding that it would be "desirable for health, supply and security reasons to evacuate as many Japanese as practical, and as soon as practical," he again cited labor shortages and urged that priority be given to evacuating some 20,000 women and children, other than Japanese, and the approximately 500 Japanese aliens by then interned. Second priority was to go to "as many Japanese with their families as can be transported." Until a large reinforcement of army troops could be sent, Emmons warned, it was "absolutely necessary" that no publicity be given to plans for evacuation or other security action; but "in the event of an assault on Oahu prior to evacuation of large numbers of Japanese," he continued, "plans are ready to immobilize all Japanese in place."<sup>68</sup>

Emmons insisted that his command must have full discretion as to which individuals or groups should be evacuated. He specified further that he wanted that authority to make selections "*without regard to nationality or citizenship*, [though]

<sup>65</sup>Emmons to adjutant general, radiogram, 11 Jan. 1942, in Daniels, ed., *American Concentration Camps*. Emphasis added.

<sup>66</sup>Ibid. It is likely that Emmons reached these conclusions based on briefings from Col. Thomas Green, who had been appointed executive for the OMG and had prepared the martial law regime in detail during 1941, before Pearl Harbor, and from the FBI and intelligence service heads. See Scheiber and Scheiber, "Bayonets in Paradise," *passim*, for a discussion of Green's role.

<sup>67</sup>Adams to CG, Hawaiian Dept., 17 Jan. 1942, in Daniels, ed., *American Concentration Camps*.

<sup>68</sup>Emmons to adjutant general, radiogram 2071, 4 Feb. 1942, in Daniels, ed., *American Concentration Camps*.

giving normal priority of evacuation to aliens."<sup>69</sup> His reference to authority to treat citizens in the same way as aliens was an ominous portent for the Kibei population at large, not only the small number already picked up and being held as internees—as it was ominous, too, for German-American and Italian-American citizens who had been arrested and interned along with the ethnic Japanese.<sup>70</sup>

While assigning high priority to security measures specifically targeted at the Nikkei population—citizens and aliens alike—Emmons succeeded in turning aside the pressures to remove all Hawaiian residents of Japanese descent to Moloka'i or some other location remote from Honolulu. These pressures were coming repeatedly from the navy, the White House, segments of the civilian population, and even some of his army superiors. Army and navy officers in the islands, no less than the civilian leadership in Washington, were deeply fearful—not without good reason, as captured Japanese war plans documents would later reveal—that the air attack on Honolulu would be followed by an invasion force launched from a Japanese carrier fleet.<sup>71</sup> Hence the focus of much of the secret radio traffic between the army command in Hawai'i and the War Department concerned the invasion threat.

An immediate augmentation of the army forces on the islands was needed, Emmons stated, not only to repulse an invasion force but also to deal with "any Japanese civilian uprising combined with organized sabotage. . . ." These latter dangers, he radioed, "will most likely occur simultaneously, particularly if [the Japanese] population thinks attack will be successful."<sup>72</sup>

On February 12, 1942, General George C. Marshall, army chief of staff, recommended that "[a]ll Japanese residents of the Hawaiian Islands (whether U.S. citizens or aliens) be transported to the U.S. mainland and placed under guard at a concentration camp in such locality as is most suitable."<sup>73</sup> A few days later, Knox personally urged on President Roosevelt the need

<sup>69</sup>Ibid. (it. ad.)

<sup>70</sup>The number of Nikkei interned is cited as 402 by Maj. K.E. Bendetson, memorandum for the assistant chief of staff, War Plans Division, 30 Jan. 1942, in Daniels, ed., *American Concentration Camps*. At least 25 of the 402 were American citizens.

<sup>71</sup>John J. Stephan, *Hawaii Under the Rising Sun: Japan's Plans for Conquest after Pearl Harbor* (Honolulu, 1984).

<sup>72</sup>Emmons to adjutant general, radiogram no. 21669, Feb. 1942, in Daniels, ed., *American Concentration Camps*.

<sup>73</sup>Quoted in Robinson, *By Order of the President*, p. 148.

for mass evacuation of Hawai'i's Japanese. Roosevelt replied on February 26,

Like you, I have long felt that most of the Japanese should be removed from Oahu to one of the other islands. . . . I do not worry about the constitutional question—first, because of my recent order [Executive Order 9066] and, second, because Hawaii is under martial law. The whole matter is one of immediate and present war emergency.<sup>74</sup>

Roosevelt authorized Knox and Stimson to make the necessary arrangements. Within a week, however, Stimson had concluded that mass evacuation was impractical, and Emmons was left to decide on whom to evacuate, with the number 20,000 being accepted by the president.<sup>75</sup>

Emmons would remain steadfast in his opposition to any mass removal and internment policy comparable to what the army instituted on the West Coast of the mainland under Executive Order 9066, confirmed by congressional legislation. It was not until February 20, 1942, that an initial group of 172 internees being held at Sand Island were sent to camps on the mainland.<sup>76</sup>

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## THE INTERNMENTS

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The several hundred enemy-alien residents, foreign-born citizens, and Kibei who had been identified as possible security risks and incarcerated from December 1941 through February 1942 were subjected to hastily convened army-supervised hearings. After being arrested, usually by the FBI but many by

<sup>74</sup>President to the secretary of the navy, memorandum, 26 Feb. 1942, PSF confidential file, FDR papers, Franklin D. Roosevelt Library, Hyde Park, N.Y. Executive Order 9066, signed February 19, authorized the exclusion of persons from prescribed military areas and their removal to relocation centers. Roosevelt had also met the previous month with Supreme Court Justice Owen Roberts, chair of Roosevelt's commission to inquire into the circumstances leading to the Pearl Harbor disaster; although there is no record of their conversation, Roberts had made it clear to Secretary of War Stimson that the Japanese population in Hawai'i constituted a "menace." The Roberts Commission report, made public January 24, did not contain such language, but the media's discussion of the report inflamed anti-Japanese fervor. Robinson, *By Order of the President*, 95–98.

<sup>75</sup>Robinson, *By Order of the President*, 151; Stetson Conn, Rose C. Engelman, and Byron Fairchild, *Guarding the United States and Its Outposts* (Washington, DC, 2000), 210.

<sup>76</sup>Kashima, *Judgment without Trial*, 78; Soga, *Life Behind Barbed Wire*, 226.

the police or the army, most of the suspects were taken into custody by the military authorities at the Immigration and Naturalization Service (INS) immigration station in Honolulu, where they were temporarily detained. Others were locked up in the Kalaheo Stockade and county jails in Kaua'i, at the Kilauea Military Camp on the Big Island of Hawai'i, or at an internment camp in Haiku, Maui.<sup>77</sup>

They were then sent before hearing boards—first a board of intelligence officers from the army, navy, and FBI, and then a review board that included three Caucasian civilians and two army officers.<sup>78</sup> At the hearings, the detainees were not informed of the specific charges against them. They also had no right to examine the evidence against them (which usually included a summary of FBI investigative findings) and had limited access to legal counsel. They were questioned about friends and relatives in Japan, any participation in Japanese consular activities or social events, and whether they had made donations of money, food, or clothing to Japan. The hearings varied considerably in scope and could last fifteen to twenty minutes or several days, during which time many detainees were unable to contact their families or even to obtain basic necessities for comfort. The provost marshal's office set forth general guidelines for the hearing boards that emphasized "CITIZENSHIP, LOYALTY, and the INTERNEE'S ACTIVITIES. . . . Keep in mind that these hearings are informal; that the Internee is not heard as a matter of his rights and that it is desired that these records be expedited."<sup>79</sup>

It is little wonder, then, that many of the detainees felt that the hearings were, at best, pro forma. One Hawaiian Kibei recalled,

[The] FBI asked me to go with them to the Department of Immigration for a little while to answer a few questions. When we reached the Department of Immigration building I was put behind bars for several weeks and no questions were asked of me. We had our meals out in the yard enclosed by walls under armed guards with their rifles drawn. All the time I was there I was not told why I was being held behind bars and neither the FBI nor

<sup>77</sup>CWIRC, *Personal Justice Denied*; Roland Kotani, *The Japanese in Hawaii: A Century of Struggle* (The Official Program Booklet of the Oahu Kanyaku Imin Centennial Committee, 1985), 91; Allen, *Hawaii's War Years*, 136; Japanese Cultural Center of Hawai'i, *Never Again: Executive Order 9066 to Honouliuli*, program commemorating the 65<sup>th</sup> anniversary of Honouliuli, March 2, 2008 (pamphlet), 7.

<sup>78</sup>Kashima, *Judgment without Trial*, 73–74.

<sup>79</sup>Quoted in Allen, *Hawaii's War Years*, 135.

the Immigration officer asked me any questions. After this I was sent to Sand Island and remained there for six months. It was during my stay at Sand Island [that] the FBI [took] me to the Federal Building where the FBI and military officers question[ed] me. They put their guns on the table in plain view, like a threat. I felt they were interrogating me as though I were a spy—but I was not. The FBI and military officers told me that since America was at war with Japan and because I was raised in Okinawa, Japan and regardless that I was an American citizen, I was an internee (P.O.W.)<sup>80</sup>

Another internee testified,

The hearings were in reality, merely individual interrogation of suspected "bad Japs." The officer asked several pointed questions which required a yes/no answer. If I answered affirmatively when asked whether I am loyal to the United States, they would accuse me of being a liar. But if I had said no, then I would be thrown in jail. I felt there was no way I could be considered a loyal American.<sup>81</sup>

Many of those who were interned would subsequently complain at their loyalty hearings of the way they were detained and interrogated, with their protestations of loyalty being disregarded.<sup>82</sup> Not a single one of the internees was found guilty of overt acts against U.S. laws, no one was investigated for sabotage, and only a few were suspected of espionage. Rather, the internees were judged "on personalities and their utterances, criminal and credit records, and probably nationalistic sympathies."<sup>83</sup> Those who were not released or paroled were moved to Sand Island, near Pearl Harbor. There the prisoners were held, in extremely primitive facilities, under tight security, under a regime of discipline that reinforced with intimidating rules the fears that came with not knowing how long they

<sup>80</sup>Testimony by Mitsunobu Miyahira in CWIRC, *Personal Justice Denied*.

<sup>81</sup>Testimony of Kwantoku Goya, in *ibid*.

<sup>82</sup>"Summaries of the Activities of Persons of Japanese Ancestry, since Arriving on the Mainland after Evacuation from Hawaii, Who Are Now Residing at the Tule Lake Center, Newell, California," July 2, 1945. RG 210, box 280, folder 39.034, National Archives. See also *infra*, pp. 51 ff.

<sup>83</sup>U.S. Congress, Joint Committee on the Investigation of the Pearl Harbor Attack, 79<sup>th</sup> Cong., 1<sup>st</sup> and 2<sup>d</sup> sess., 1946, part 35, p. 570, quoted in Allen, *Hawaii's War Years*, 134.

would be held, where they might be sent, or, as some testified they thought, whether they were to be killed.<sup>84</sup>

As of February 8, 1942, the army thus held in internments in Hawai'i 518 citizens and enemy aliens.<sup>85</sup> Kibei and other Nikkei were held in Hawai'i, in legal status designated as "internees" under army control as an exercise of martial law policies. On February 21, 1942, the army began sending the Sand Island internees to the mainland. Included in the initial transport were 156 Issei and 16 Nisei, along with 26 German and Italian aliens and citizens.<sup>86</sup>

Army officers at the OMG were soon made to realize that the military regime lacked formal legal authority to remove citizens; there was nothing comparable to what the president and Congress had given to the Western Defense Command to empower it to carry out the mass removal and internments from the West Coast mainland states. On March 3, 1942, Colonel Archer Lerch, deputy provost marshal general, therefore advised the adjutant general,

It is believed advisable that hereafter no United States citizens be transferred to the Mainland. Legal status of internees under martial law probably cannot be successfully questioned so long as individuals are detained in Territory. Legality of detention of citizens under internment order issued in Hawaii questionable when internees transferred to Mainland.<sup>87</sup>

A month later, Secretary of War Stimson wrote in his diary,

As the thing stands at present, a number of them have been arrested in Hawaii without very much evidence of disloyalty, have been shipped to the United States, and are interned there. McCloy and I are both agreed that this was contrary to law; that while we have a perfect right to move them away from defenses for

<sup>84</sup>Soga, *Life Behind Barbed Wire*, passim. The internees were housed in tents that they had to erect themselves for the first six months, until barracks were completed. JCCH, "Never Again," 7.

<sup>85</sup>Headquarters Hawaiian Dept. to adjutant general, 8 Feb. 1942 in Daniels, ed., *American Concentration Camps*.

<sup>86</sup>Provost marshal general to chief of staff, War Department, 28 Feb. 1942, RG XXX; Kashima, *Judgment without Trial*, 78.

<sup>87</sup>Lerch to adjutant general, 3 March 1942, in Daniels, ed., *American Concentration Camps*.

the purpose of protecting our war effort, that does not carry with it the right to imprison them without convincing evidence.<sup>88</sup>

Only through its general authority under martial law in the islands did the army have the legal power to intern citizens or dual citizens in Hawai'i. The Nisei were, consequently, returned from the mainland to the Sand Island Detention Station in August 1942.<sup>89</sup> Thus, although some Nisei citizens or dual citizens were transported to the mainland in the first year of the war, once the Department of Justice, in 1942, refused to accept citizens, only aliens were sent formally as "internees" thereafter.<sup>90</sup> Nisei internees, including Kibei, would be held in the territory of Hawai'i, most of them at Sand Island, until March 1943, when most of the Kibei still in custody there would be transferred to a newly opened internment camp that was hastily built at Honouliuli, near the town of Ewa.<sup>91</sup> Honouliuli, like Sand Island, was heavily patrolled and ringed with barbed wire, but the internees were allowed family visits twice per month.<sup>92</sup> However, as we shall see below, Kibei and other Nisei continued to be transferred to the mainland, "released" into the custody of the War Relocation Authority rather than as internees in the Justice Department camps, but incarcerated nonetheless.<sup>93</sup> Internees requesting repatriation to Japan were subsequently transferred to the Tule Lake camp.<sup>94</sup>

Meanwhile, in the fall of 1942, military intelligence officers began investigating all Kibei in the islands who had not yet been arrested or detained. Said one young Kibei who subsequently volunteered for military service,

<sup>88</sup>Stimson diary, April 7, 1942, quoted in CWIRC, *Personal Justice Denied*.

<sup>89</sup>CWIRC, *Personal Justice Denied*.

<sup>90</sup>U.S. Army, *History of the U.S. Army MIDPAC*, quoted in Allen, *Hawaii's War Years*, 138.

<sup>91</sup>See, for example, William Gordon, "WWII Internment Camp Revisited," *Honolulu Advertiser*, <http://the.honoluluadvertiser.com/article/2008/Mar/03/ln/hawaii803030363.html> (includes video of the return of a small group of survivors of the internment to the site, being surveyed for designation as a park or monument). The internees called the camp "Hell Valley" because of the intense heat that characterized the weather in the local area. *Ibid.* Some Japanese prisoners of war were also held there.

<sup>92</sup>JCCH, "Never Again," 11.

<sup>93</sup>See section "Evacuation," *infra*.

<sup>94</sup>For a discussion of the Tule Lake camp, see *infra*, pp. 54 ff.



Most of the Kibei still in custody at Sand Island in 1943 were transferred to the newly opened internment camp at Honouliuli (above), near the town of Ewa. (Courtesy of Japanese American Relocation & Internment: The Hawai'i Experience Collection, Japanese Cultural Center of Hawai'i. Photograph by R.H. Lodge)

I was really surprised they knew so much. I mean, I was only a sixteen-year-old young punk that just came back from Okinawa two years before the war. And why they were keeping dossier on me, I don't know. Because I didn't do anything, outrageous things in the two-year period. Somehow, they keep track of me, I guess. They know some of the things I don't remember, I forgot. That really shake me.<sup>95</sup>

Those who were arrested were subjected to intensive questioning; they were asked, for example, if they would follow orders to bomb the Imperial Palace with the emperor there or, in the case of a Japanese invasion on the beach, if they would shoot toward the beachhead or toward the defending American soldiers. The military officers in charge rendered judgments that appear to have been arbitrary in

<sup>95</sup>Interview of Takejiro Higa, "The Hawai'i Nisei Story: Americans of Japanese Ancestry During WWII," Center for Oral History, University of Hawai'i, 2006, <http://nisei.hawaii.edu>.

many cases, deciding to intern one Kibei while releasing another with a virtually identical personal history. For example, among the adverse factors reported in the case of one suspect who was interned was "subject is a kibeï with all the characteristics of the type"—a characterization that was neither detailed nor clarified.<sup>96</sup> Although the decisive U.S. naval victory in the Battle of Midway virtually eliminated the likelihood of a Japanese invasion of Hawai'i, the military still regarded the Kibei as a particular threat. Because of their "possible relationship with certain Japanese authorities" before they returned home to Hawai'i, said one intelligence official, they are "necessarily suspicious" and "their mission [sic] in the United States is not clear and must be regarded with suspicion."<sup>97</sup> Despite such suspicions, the searches of Kibei homes on the islands of Oahu, Maui, and Hawai'i failed to produce any evidence of a dangerous anti-American character.<sup>98</sup> Nevertheless, the pressures to evacuate the Kibei and other allegedly dangerous Nikkei from Hawai'i continued.

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#### THE EVACUATION POLICY: DECEMBER 1942 TO MARCH 1943

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As noted above, the first transfers of Hawaiian internees, including both aliens and citizens, to the mainland began in February 1942. A second ship bearing 166 internees departed on March 19 and a third with 109 internees on May 23.<sup>99</sup> Despite the concerns of the adjutant general's office, or perhaps ignorant of these concerns, the U.S. joint chiefs of staff and the president recommended on March 13 that "such Japanese residents of the Hawaiian Islands (*either United States citizens or aliens*) as are considered by appropriate authority in the Hawaiian Islands to constitute a source of danger be transported to the U.S. mainland and placed under guard in concentration camps." Conceding that Emmons should have the final authority, General Dwight D. Eisenhower, assistant chief of staff, wrote, "Only, repeat only, those persons ordered interned

<sup>96</sup>Kashima, *Judgment without Trial*, 82.

<sup>97</sup>E.J. Crane, HQ, Maui Service Command, Oct. 27, 1942, quoted in Kashima, *Judgment without Trial*, 81.

<sup>98</sup>Kashima, *Judgment without Trial*, 82.

<sup>99</sup>Soga, *Life Behind Barbed Wire*, 226.

by you will be evacuated."<sup>100</sup> In his reply, Emmons said that it was impossible to state definitely the number of Japanese to be interned and sent to the mainland, as continuing investigations were necessary to clarify the status of the suspects. His "[p]resent estimate of Japanese to be evacuated and interned was 1,500 men and 50 women. . . . However, circumstances may arise at any time making it advisable to raise this estimate to much larger figures."<sup>101</sup>

Assistant Secretary of the Army John McCloy<sup>102</sup> visited Hawai'i in March 1942 and came away convinced that both the army and the navy officers on the scene in Hawai'i were justifiably opposed to mass evacuation of the Nikkei. He further acknowledged that any such mass evacuation to either an outlying island or the mainland was impractical because of the lack of shipping, the importance of the Japanese labor force, the lack of facilities on the mainland, and "the political repercussions on the West Coast and in the United States generally to the introduction of 150,000 more Japanese."<sup>103</sup> McCloy publicly stated for the Honolulu newspapers of March 27 and 28 that mass evacuation of the ethnic Japanese was impractical and was not contemplated, and by April 3, McCloy and the army's Operations Division seemed to accept Emmons' recommendation for evacuating the 1,500 men considered dangerous.<sup>104</sup>

Neither Secretary of the Navy Knox nor the president himself, however, was willing to abandon the idea of large-scale evacuations. On April 20, Knox again advocated "taking all of the Japs out of Oahu and putting them in a concentration camp on some other island."<sup>105</sup> A month later, McCloy wrote to General Emmons, "Both the President and the Secretary of the Navy continuously refer to the desirability of moving Japanese from the Island of Oahu to some other Island rather than to bring any numbers of them to the United States." McCloy was

<sup>100</sup>Eisenhower for adjutant general for dispatch to commanding general, Hawaiian Department, memorandum, 18 March 1942, in Daniels, ed., *American Concentration Camps*. Italics added.

<sup>101</sup>Emmons reply quoted in memorandum from Eisenhower to Asst. Secretary of War McCloy, 3 April 1942, in Daniels, ed., *American Concentration Camps*.

<sup>102</sup>Following the Pearl Harbor attack, Secretary of War Stimson put McCloy in charge of the "security problem" in Hawai'i and on the West Coast. In this capacity, McCloy had direct authority over Hawai'i and the Office of the Military Governor. He was a principal architect of the plan to intern the mainland Nikkei.

<sup>103</sup>McCloy for Gen. Eisenhower, memorandum, 28 March 1942, quoted in Conn et al., *Guarding the United States*, 211.

<sup>104</sup>OPD for ASW, memorandum, 3 April 1942, quoted in Conn et al., *Guarding the United States*, 211.

<sup>105</sup>Quoted in Conn et al., *Guarding the United States*, 211.

resisting any such change because of the difficulties involved. "However," he wrote, "the matter has not come to rest and the thought now is that if the number that were to be moved were to be limited, say, 10,000 or 15,000, the practicability of moving them to Hawaii [the Big Island] would be apparent. . . . I feel I should send you warning that this subject may crop up again and that you might be thinking of it."<sup>106</sup> Emmons remained unswayed. "I think we can counteract any such suggestions by logic when the time comes," he replied to McCloy.<sup>107</sup>

Nevertheless, Emmons and his staff did begin working on plans that would remove some additional Nikkei from the Territory of Hawai'i. In late June, Emmons proposed that those who constituted an economic drain on the war effort, as well as families of internees already on the mainland, be *voluntarily* evacuated to the mainland.<sup>108</sup> The War Department assured Emmons that it had now abandoned the idea of mass evacuations of aliens and citizens of Japanese extraction. "It is realized, however, that there are certain groups of Japanese in Hawaii who are either believed to be dangerous or are most likely to become so during any period of invasion or immediate threat of invasion." Thus, Emmons was told, the War Relocation Authority had made provision for up to 15,000 evacuees from Hawai'i in relocation centers on the mainland. "These centers are not, repeat not, internment camps but instead are resettlement areas with housing facilities and opportunities to work provided by the government."<sup>109</sup>

On July 17, in a memorandum rescinding the policy of evacuation approved by the president in March, the War Department made explicit the distinction between internment and the relocation centers:

No United States citizen of any derivation whatsoever, either naturalized or native-born, now residing in Hawaii, and considered . . . to constitute a source of danger to our national security, will be transferred to the continental United States for internment. Such individuals will be

<sup>106</sup>McCloy to Emmons, 18 May 1942, in Daniels, ed., *American Concentration Camps*.

<sup>107</sup>Emmons to McCloy, 15 June 1942, in Daniels, ed., *American Concentration Camps*.

<sup>108</sup>Conn et al., *Guarding the United States*, 212. Italics added.

<sup>109</sup>Thomas Handy, memorandum for War Department for transmittal to Emmons, 27 June 1942, in Daniels, ed., *American Concentration Camps*. See *infra*, pp. 35–40, for further discussion.

interned in the Hawaiian Islands under authority vested in the Military Governor.<sup>110</sup>

At the same time, Emmons was authorized to evacuate to WRA facilities (not for internment) "up to 15,000 persons, in family groups, from among the United States citizens of Japanese ancestry who may be considered as potentially dangerous to national security."<sup>111</sup>

Emmons continued to refine his plans into the fall months, maintaining his focus on the families of internees and those who were a drain on the economy.<sup>112</sup> In October he wrote that he wished the evacuation to be "ostensibly on a voluntary basis." Apparently concerned about the welfare of the evacuees, he requested information on the availability of schools and hospitals, the type of employment that would be available, and the type of shelter and location of the relocation centers.<sup>113</sup> A few days later, Emmons was authorized to proceed with an evacuation of up to 3,000 for the present, although a total of 15,000 was approved for the long run. He was assured by General Marshall that he had full authority as military governor and by presidential order to evacuate "any alien or citizen Japanese you deem potentially dangerous." However, Marshall deemed it "undesirable and unnecessary" to make the evacuation voluntary.<sup>114</sup>

The OMG never conceived of the evacuation policy as a first step for mass internments or removals. In formal terms, the program as announced was intended to transfer out of Hawai'i, in a series of removals, groups of individuals selected for evacuation "who are either non-productive [to the wartime economy] or who are potentially dangerous in the Islands but

<sup>110</sup>J.R. Deane, general staff, to McCloy, 17 July 1942, in Daniels, ed., *American Concentration Camps*.

<sup>111</sup>Ibid.

<sup>112</sup>Conn et al., *Guarding the United States*, 214.

<sup>113</sup>Emmons, paraphrase of radiogram dated Oct. 2, 1942, in Daniels, ed. *American Concentration Camps*.

<sup>114</sup>Marshall, paraphrase of secret War Department radiogram, Oct. 7, 1942, in Daniels, ed., *American Concentration Camps*.

not dangerous on the Mainland."<sup>115</sup> On the mainland, it was explained, the people removed would no longer be able to conduct espionage or engage in sabotage near the sites of sensitive military and naval operations such as were located in Hawai'i.

The initial detailed evacuation plan, dated December 1, 1942, anticipated that some 3,250 persons would be evacuated. The largest group selected for evacuation was fishermen (mostly Issei), now banned by the military from going out on the water lest they conduct surveillance for the enemy. Because the fishermen had specialized skills, not adaptable to other employment in the islands, OMG staff feared that they would need public relief and thus become a financial burden for the military government. This group, including families (with an average of six children), would number an estimated 2,000; thus it was nearly two-thirds of the projected total of 3,250 to be evacuated.<sup>116</sup> The second largest group in the plan was to be composed of Kibei and their "small families," for a total of 475. The Kibei, who were U.S. citizens, had been detained and then interned in Hawai'i; they were included in the broad category of security risks.

Voluntary (or non-voluntary, as you wish) relocation of citizen internees and their families has been, in most cases, after a conference between the internee and his wife resulting in their joint decision to be evacuated. The internee's case is then considered in view of the recommendation for release on the mainland before evacuation by this office.<sup>117</sup>

<sup>115</sup>This quotation as to the program's intentions and details is taken from a December 1942 report written by Edwin Arnold, who was sent by the War Relocation Authority to Hawai'i: Edwin G. Arnold, special assistant to the director, to Dillon S. Myer, War Relocation Authority, memorandum, 16 Dec. 1942, RG 210, entry 17, box 3. The report attaches a memorandum from Captain Blake of the Contact Office of the Military Intelligence Division of army headquarters in Honolulu to Lt. Col. Bicknell, "Review of Evacuee Transfer," 1 Dec. 1942. According to Arnold, Blake and Bicknell, along with Col. Fielder, were responsible for the evacuation policy. Emmons insisted that no Nikkei sent to the mainland should be permitted to repatriate to Japan, since if returned to Japan they could become a source of sensitive intelligence for the Japanese military on Hawai'i-based operations. Secretary Stimson accepted this position, to the discomfiture of State Department officials who had counted on using repatriation as a means of effecting exchanges for American citizens being held in Japan and caught by the outbreak of war. P. Scott Corbett, *Quiet Passages: The Exchange of Civilians between the United States and Japan during the Second World War* (Kent, OH, 1987), 83-85.

<sup>116</sup>Blake to Bicknell, memorandum, "Review of Evacuee Transfer," 1 Dec. 1942, RG 210, entry 17, box 3, National Archives.

<sup>117</sup>Ibid.

Among the others targeted for evacuation were a small number of individual Kibei and 225 aliens who had requested repatriation to Japan; all Japanese aliens (legally, alien enemies) who were interned in Hawai'i and their families; and the families of selected Japanese aliens who had previously been removed and were interned on the mainland. The families, in both these latter categories, were formally designated "voluntary evacuees."<sup>118</sup>

The evacuations based on this plan began in November 1942. Actual evacuations, however, fell far short of the initial goal of 3,250, though not so much with regard to the Kibei who had been targeted. Although it lasted only a few months, the evacuation program did transfer to the mainland "313 persons formerly interned in the territory of Hawaii, who together with their families and 26 other family units, numbering 1,040 in all, were evacuated in late 1942 and early 1943."<sup>119</sup> Of those transferred, 88 percent were Nisei citizens, 356 of whom were adult men, including Kibei.<sup>120</sup> The program ended in March 1943, when the evacuations were abruptly halted.<sup>121</sup>

The evacuation to the mainland was, according to one army official, "primarily for the purpose of removing non-productive and undesirable Japanese and their families from the Islands" and "largely a token evacuation to satisfy certain interests which have strongly advocated movement of Japanese from the Hawaiian Islands."<sup>122</sup> At a later time, during late 1944 and into 1945, the OMG would inaugurate a similar removal program, but with a different legal template and under the rubric *exclusion* rather than *evacuation*.<sup>123</sup>

<sup>118</sup>Ibid.

<sup>119</sup>Richardson to commander in chief, Pacific Ocean Area, draft memorandum, "Return of Hawaiian Evacuees to Homeland," 18 March 1945, RG 494, entry 11, box 32, National Archives. Michi Weglyn states that a total of 1,037 were evacuated, including 912 citizens. Michi Mishiura Weglyn, *Years of Infamy: The Untold Story of America's Concentration Camps* (1976; Seattle, 1996), 88.

<sup>120</sup>The evacuees included 493 children under the age of nineteen and 217 adult women. Of the women, 137 were Nisei, including 21 single women. WRA, Department of the Interior, *The Evacuated People: A Quantitative Description* (Washington, DC, n.d.), 206.

<sup>121</sup>Ibid.

<sup>122</sup>McFadden to Bendetsen, memorandum, 19 Nov. 1942, quoted in CWRIC, *Personal Justice Denied*.

<sup>123</sup>This later program, which had the same intent and much the same practical impact on Kibei and their families, is discussed below, pp. 71–73.

The Hawaiian internees, mainly Kibei,<sup>124</sup> who chose evacuation to the mainland rather than continued internment, had been promised they would be released, and, as an army official later stated, they were “under the impression that [they] . . . would be free of all restrictions except as to residence within the west coast area.” The summaries of their files read, in most cases, “Released from internment at the time of his departure from the territory of Hawaii to the Mainland of the United States”—hence the name “gangplank” releases.<sup>125</sup> Before being released from internment, each internee had to sign a waiver of the right to sue the government for detention.<sup>126</sup> According to one account,

I was coerced—intimidated—into signing that statement. I was told that if I didn’t sign, I would again lose my freedom.<sup>127</sup>

According to an interview with another Hawaiian Kibei,

One day a Caucasian who talked fluent Japanese came into the [Sand Island] center and told them that they had good news for them. He said the citizens could evacuate to the mainland with their families and that they would be free over here . . . and would get employment. Most of them anticipated doing some farm work. Women and children were told they would be united with their husbands who were interned on the mainland.<sup>128</sup>

The evacuees must indeed have been shocked, given these assurances, when they arrived at the mainland WRA centers at

<sup>124</sup>Records in the WRA database show that 324 Kibei were held in WRA centers. See n. 28, *supra*.

<sup>125</sup>Stanley D. Arnold to commanding general, Western Defense Command, Third Report, Captain Arnold, 7 May 1945. For a description of Arnold’s assignment to review the security measures involving Hawaiian Nikkei, see pp. 76–77.

<sup>126</sup>Weglyn, *Years of Infamy*, 88. According to Allen, five individuals brought suit for false imprisonment, but none was a Nikkei. Allen, *Hawaii’s War Years*, 137. The authors have also found references to such waivers in other detention cases, notably that of Hans Zimmerman, who refused to sign one and initiated habeas proceedings; in that instance, the army backed down and withdrew its demand for the waiver. Scheiber and Scheiber, “Bayonets in Paradise,” 568.

<sup>127</sup>Hank Sato, “Honouliuli Camp,” *Honolulu Star Bulletin*, March 18, 1976, quoted in Kashima, *Judgment without Trial*, 85.

<sup>128</sup>“Interview with a Hawaiian Kibei,” by Edgar C. McEvoy, Jerome Community Analyst Report No. 113, Sept. 8, 1943, RG 210, National Archives, quoted in Weglyn, *Years of Infamy*, 88–89.

Jerome, Arkansas, or Topaz, Utah, to find themselves in enclosures surrounded by barbed wire and armed guards, with work permits strictly controlled by the authorities and leave to work outside the camps limited to those who passed a security clearance. As the War Relocation Authority subsequently reported in regard to one such evacuee,

At the hearing he stated when they shipped him from detention in Hawaii to the Mainland, he understood they were to be free and was trying to find out at time of registration why he was placed in a camp.<sup>129</sup>

One prominent critic of the entire internment policy has called the Hawaiian evacuation "a surrealistic tale of chicanery and duress, deplorable for its official use of mendacity to abrogate the rights of ordinary citizens blameless of wrongdoing."<sup>130</sup>

The policy for reuniting internees with their families, no matter how well intended, was a mixed picture in its implementation. The families were typically shipped out from Honolulu to the mainland weeks, often months, after the internees had been taken away; and there are many stories of family members who were taken, first in the crowded holds of ships and then on darkened railroad cars and transported, hapless itinerants, from camp to camp on the mainland, a step behind the internees' transfers among camps in the South and the North-western states. Actual family reunification was seldom quickly achieved, and the uncertainties of their fate created painful anxiety for the people so affected.<sup>131</sup>

Stringent as the evacuation policy was, especially for the Kibei and their relatives, the army's program did not satisfy the top naval intelligence officers in Hawai'i, nor did it appease others pressing for a stronger policy of removals. Although the persistent demands for a mass internment from Secretary of the Navy Knox had been successfully turned aside by the army, the navy's security and intelligence staffs in Hawai'i remained

<sup>129</sup>War Relocation Authority, "Summaries of the Activities of Persons of Japanese Ancestry, since Arriving on the Mainland after Evacuation from Hawaii, Who Are Not Residing at Tule Lake Center, Newell, California, April 24, 1945." RG 210, box 280, folder 39.034A, National Archives.

<sup>130</sup>Weglyn, *Years of Infamy*, 88.

<sup>131</sup>Recollections of former internees and evacuees in oral histories archived in the JCCH; and letters from internees, evacuees, and family members asking for the army's or elected officials' permission to rejoin their family members. The Hawaii Command records also contain correspondence from families seeking reunification with loved ones in the camps, or incarcerated persons seeking early return to their families in Hawai'i.

intransigent in their views. Their position was illustrated in stark form when in late 1943 navy intelligence recommended the evacuation of "thousands and thousands" of Nikkei from three major coastal areas of Oahu in which important naval logistic and operational activities were centered.<sup>132</sup> This idea was scorned by the OMG's chief intelligence officer, who warned that if the navy's local security officer were permitted any control over policy, "[t]he minute he moves in, three years of effort to promote racial harmony, economic status quo, and domestic tranquility will go by the boards."<sup>133</sup>

There is every indication, however, that the OMG intended to continue to expand the evacuation program on a modest and gradual basis. Thus it is necessary to ask why so many fewer persons were evacuated than had been planned, and why the program ended so suddenly. The answer seems to lie in part in Emmons' concerns that the Hawaiian evacuees be separated from any Japanese aliens in the camps who were about to be repatriated, and in part in inter-bureaucracy conflicts that owed much to the heavy-handed manner in which the OMG implemented the evacuation procedure—especially with regard to a firestorm of criticism that it drew from Dillon Myer, director of the War Relocation Authority, and his staff.

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### BUREAUCRATIC CLASHES

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An initial problem arose from General Emmons' insistence that Hawaiian evacuees be segregated from Japanese aliens awaiting repatriation in mainland relocation centers or in the camps. Because some of the evacuees had been employed in war-related construction projects prior to their departure, or even simply because they had observed these projects, Emmons and the OMG planners worried that evacuees would divulge sensitive information that could reach the Japanese military. Emmons' demand for separation involved management complexities for the WRA. Furthermore, it irritated WRA Director Myer, who in December 1942 requested of the Department of the Interior that WRA not be required to accept any more Hawaiian evacuees until the OMG clarified whether these evacuees could be permitted to be held in contact with others (even in their own removal groups) who might be scheduled for

<sup>132</sup>Col. Kenneth Fielder to OMG, memorandum, 21 Nov. 1943, describing the navy intelligence officer's recommendations, RG 494, entry 11, box 35, National Archives.

<sup>133</sup>*Ibid.*

transfer or released on parole from the relocation centers. As early as November 1942, military officials were suggesting that separate camps might have to be constructed on the mainland for Hawaiian evacuees, but this idea apparently gained little traction because of the costs involved and the delays in timing of evacuations.<sup>134</sup> In January 1943, the adjutant general notified Emmons that any further evacuations would require the OMG's express approval and must be in accordance with War Department policy.<sup>135</sup>

Meanwhile, relocation center officials were complaining internally that the Hawaiian evacuation was creating problems within their organization.<sup>136</sup> A letter addressed to Assistant Secretary of War John McCloy from Myer stated,

Our experience at Jerome, where the Hawaiian evacuees are located, has not been good. They have proved to be unwilling workers and about half of them have answered no to the loyalty question number 28 in the selective service registration form. They definitely are not the kind of people who should be scattered among the West Coast evacuees.<sup>137</sup>

The relocation centers were becoming overcrowded, and the newly arrived evacuees from Hawai'i were running into friction with the mainland Nikkei internees who were already being held in these facilities. Legal issues also remained troubling: The WRA lacked formal authority to place Kibei in internment camps or to effect their parole, since, as noted earlier, the evacuees were in custody under authority only of martial law and therefore remained the legal and administrative responsibility of the OMG in Hawai'i. Moreover, the WRA officials had come to the conclusion that evacuation had less to do with protecting Hawai'i's military security than with the OMG unburdening itself at the expense of mainland authorities. Myer and others registered increasingly urgent complaints about the program.

<sup>134</sup>Colonel William Scobey to Dillon S. Myer, director, War Relocation Authority, memorandum, 31 Dec. 1942, RG 210, entry 17, box 3, National Archives.

<sup>135</sup>Adjutant general to General Richardson, OMG, memorandum, 23 Jan. 1943, RG 494, entry 22, box 147, National Archives.

<sup>136</sup>Jerome Relocation Center to Charles Ernst, project director at Central Utah Relocation Center, memorandum, 26 Feb. 1943, RG 210, entry 17, box 3, National Archives.

<sup>137</sup>Myer to McCloy, 27 Feb. 1943, in Daniels, ed., *American Concentration Camps*.

On February 27, Myer requested that McCloy ask Emmons to suspend further evacuations to the mainland.<sup>138</sup>

By the end of March 1943, the bureaucratic tensions that were mounting so dramatically finally forced the OMG to halt the evacuation program. It was officially suspended on April 2, unless the number of internees exceeded Hawai'i's capacity for housing them.<sup>139</sup> (Eight voluntary evacuees from Hawai'i—family members seeking to reunite with spouses or parents taken to the mainland earlier—entered the WRA centers between May 1943 and September 1944.)<sup>140</sup> So the army legal staff and the security officials in Hawai'i went back to the drawing board in their offices at Iolani Palace to reconsider the policies for removal of internees and for internal security control. As before, the Kibei—being citizens, hence potentially a source of litigation that could undermine the army's powerful hold on both security and general civilian affairs—remained the focus of attention for the OMG and its legal officers.

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#### RACIAL PROFILING, INTERROGATION BY STEREOTYPE, AND LOYALTY

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The need for security and defense of the islands—and hence the corollary need for selective internments—remained paramount in the thinking of the OMG throughout the war. Having initially decided that detention, internment, and evacuation of residents of Japanese ancestry would be selective, Emmons (and later his successor, Robert C. Richardson) and the OMG staff had had to determine how best to make that selection. Thus, from the earliest days of the war, the basis for determining the loyalty of the Nikkei—and the potential security risk they posed—became a central, complex, and highly controversial issue for security policy.

The intelligence officers of the army, navy, and civilian security apparatus had all recognized the importance of citizenship

<sup>138</sup>Myer to McCloy, 27 Feb. 1943, in Daniels, ed., *American Concentration Camps*.

<sup>139</sup>Conn et al., *Guarding the United States*, 214.

<sup>140</sup>WRA, *The Evacuated People*, 206. The reduced, but apparently unwelcome, flow of new evacuees throughout 1943 led Dillon Myer of the WRA to complain to the OMG in 1944 that “[a]t the present time, we find it very undesirable to accept additional residents at the Tule Lake Segregation Center” and to request that Morrison dissuade voluntary evacuees from applying to join their family members in mainland relocation centers. Dillon S. Myer, director, War Relocation Authority, to Brigadier General William R.C. Morrison, memorandum, 20 Jan. 1944, RG 494, entry 22, box 148, National Archives.

status as well as other factors of diversity in Hawai'i's Nikkei community as a social (and legal) reality, relevant to security policy. They therefore sought to design policies that would take account of the unique characteristics of each subgroup. Dealing with this challenge, the bureaucracy—consisting in the islands entirely of Caucasians, none of whom had expert knowledge of Japanese culture—devised an elaborately rationalized template for what today is termed *profiling*. A nuanced interrogatory protocol would eventually be formulated, based on experience in handling Nikkei who were taken into custody in the initial weeks of the war, in December 1941 and early 1942.<sup>141</sup>

The army was assigned final responsibility for security and internments under martial law, augmented by an interservice agreement on unified command. As we have seen, in handling loyalty suspects the OMG relied on interrogation sessions with intelligence officers, followed by interviews before a mixed military-civilian loyalty board; this board recommended to the commanding general, for every suspect who was taken into custody, whether to order internment on security grounds.<sup>142</sup> But from the start, in both investigative processes and their interrogations in custody, the Kibei had to bear a greater burden than was borne by others if they were to avoid internment. This was evidenced by the deeply prejudiced profile that was applied to them by administrators, officers conducting arrests, interrogators, and review board personnel.<sup>143</sup> Hence in the reports of interrogations and board proceedings, when a subject was described as "a typical Kibei," it was a shorthand way of saying that this person was not to be trusted—was at worst disloyal and possibly actively subversive, at best "potentially disloyal." This last phrase was applied routinely, capturing many undoubtedly innocent and loyal suspects in the web of incarceration and evacuation and/or internment.

In a review and analysis of interrogations that had been conducted in the first twelve months of the war, a navy intelligence report declared that "every individual of Japanese

<sup>141</sup>Although it does not deal specifically with Hawai'i, a detailed discussion of attempts to determine the loyalty of the Nikkei can be found in Muller, *American Inquisition*. Defining *loyalty* is a challenging exercise in any event, whatever the target group under suspicion; and in fact, on the mainland, the authorities in charge of internment used professional psychologists to classify evidences of loyalty and disloyalty in what became an elaborate pseudo-scientific exercise, the impact of which, Muller shows, carried over to the postwar period of loyalty oaths and McCarthyism. See also note 280, *infra*.

<sup>142</sup>See *supra*, section on internments.

<sup>143</sup>Discussed more fully *infra*, pp. 45–47.

ancestry in Hawai'i has been exposed to some Japanese influence," so that a distinction must be recognized between actions by an individual and an "exposure to influences over which he had no control."<sup>144</sup> Judicious evaluation of the factors bearing on loyalty had not always been carried out in the interrogations previously conducted, the authors of the report had found. Among factors to be considered were the following:

- *Family relationships*: The report counseled that while loyalty to family was a strong sentiment among Japanese, circumstances could vary greatly in individual cases.
- *Length of time spent in Japan*: "Motives should be determined," and an individual who made repeated return trips to Japan should be subjected to closer scrutiny than one who had one long period of residence there. Location, too, was important: "Did [the individual] live in strong centers of Japanese nationalism, or was he in a more isolated spot, somewhat removed from this influence?"
- *Education*: The report advised that a person's "current reading habits" and efforts at "self-education," possibly offsetting the influence of Japanese schooling, should be a matter of inquiry.
- *Citizenship*: That a person took the necessary steps to expatriate and renounce Japanese citizenship would be "a strong point," but there were many reasons why a subject might not have taken the complex steps needed to renounce.<sup>145</sup>
- *Registration of subject's child(ren) with consul general*: If the subject registered his or her children with the Japanese consulate, thus giving them dual citizenship, it was reason for suspicion. Yet, the memorandum pointed out, a grandparent or midwife may have registered a child without the parent's consent or knowledge.
- *Religion*: The religious beliefs of suspects, the authors of the memorandum had discovered, were a common source of misunderstanding and unfairness to subjects

<sup>144</sup>Memorandum, Feb. 25, 1943, 1, Naval Intelligence manual, archived in RG 389, entry 480, box 1722 (lacking cover page but identified by internal reference as issued in February 1943, and by cross-references thereto from the later revision), cited in this article, *infra*, at note 147.

<sup>145</sup>It is ironic that some of the men who had helped with expatriation—a program highly unpopular with the Japanese government—through the consulate were among the first to be picked up immediately after the Pearl Harbor raid.

on the part of investigators. More specifically, “numerous cases” were found

in which the agent has listed as an unfavorable factor that “Subject is a Buddhist.” . . . The sect to which the individual belongs should be determined. Some Buddhist sects have no more in common with each other than Jehovah’s Witnesses and the Presbyterian Church. However, the individual’s religion should be considered an adverse point if he is a member of the Izuma . . . [or other] nationalistic Japanese sects.

- *Membership in cultural, sports, or other organizations:* Again, the authors made clear that in many loyalty proceedings the relationship of the suspect to an organization—with a role in soliciting donations for it being considered very different from the lower-rated status of “halfhearted dues-payer”—had not been investigated with sufficient refinement. Many of the organizations had been identified by the ONI as suspect for being overtly pro-Japanese or subversive.<sup>146</sup>
- *Financial interests:* The inheritance laws of Japan, it was pointed out, required Japanese citizenship if an eldest son were to be heir to property; there were various Japanese currency and banking rules that tied an investor’s stake to the Japanese yen; and bonds paying interest in dollars had been sold widely in Hawai‘i. Heavy investments in Japanese government or industry bonds would mean the investor “would have little financial interest in a United States victory” in the war. Other types of financial relationships, it was averred, had to be considered individually.
- *Other issues:* The report considered various other factors that had figured in interrogations and loyalty proceedings. On the negative side, the report included a subject’s having a record of extending hospitality to visiting Japanese naval or diplomatic personnel, attending receptions for such visitors, or any record of service as a consular assistant for purposes of handling registration of births or other documents. On the positive side, the authors considered evidence of support for the American war effort through purchase of bonds,

<sup>146</sup>The Japanese Cultural Center of Hawai‘i collections contain copies of the extensive, detailed reports prepared by the Office of Naval Intelligence (with evaluations in varying depth of alleged disloyal or suspect activities) about the islands’ various Japanese organizations.

participation in volunteer activities supportive of the troops, and the like, as indicating loyalty to the United States. Here again, the tone was cautionary: the authors were obviously concerned by the glib and uncritical way in which various past activities and associations of suspects had been labeled "disloyal" or a basis for the designation *potentially disloyal*.

- *Attitudes toward the Emperor*: The report gave this issue extended attention. The memorandum averred that "differentiation should be made between veneration, respect, and loyalty." The attitude of an individual "may have some religious quality, may be purely political, or may be completely objective. Apathy is frequent; hate has seldom if ever, been encountered."

The cautionary tone and relatively moderate content of this navy document are noteworthy on two counts. First, the authors advised intelligence personnel to take a measured, balanced view of the background and beliefs of subjects being investigated or questioned. Second, inferred or explicitly stated in the text is the fact that actual practice had not conformed to these standards and that serious errors of judgment had been made. The authors made it clear that misjudgments and unfairness had resulted in serious injustices to individuals.

Several months later, the navy intelligence office in Hawai'i assumed a very different posture, however, on the question of interrogation protocol and the criteria for evaluating the factors that had been singled out in the earlier publication. This shift in attitude was revealed in a new manual issued by Naval Intelligence, taking a much harsher line in its guidance for investigators and interrogators.<sup>147</sup> The new document left no doubt about its intention on that score, explicitly declaring that the February document "is hereby superseded and cancelled." Now the emphasis was given to the premise that positive evidences of loyalty associated with a suspect should be discounted for a variety of reasons. Whereas the earlier document had systematically expressed caveats about assumptions that could easily be made too hastily and with unfair results, the new manual set forth its recommendations in the template of a racial and cultural stereotype of the Japanese that suggested the high likelihood of a Kibei suspect's being disloyal to the United

<sup>147</sup>Manual prepared for persons attached to the District Intelligence Office, Fourteenth Naval District, RG389, entry 480, box 1722, National Archives. The manual bears no date, but its internal references to the earlier manual and to events and memoranda make it likely that it was issued in August 1943 [hereinafter cited as "Navy DIO manual, Aug. 1943"].

States and dangerous to security. Although the new manual did reprint a key passage from the earlier memorandum, counseling that there was no more reality in the concept of a "typical Kibei" than of that of a "typical American," the substantive content of the document ran counter to the notion that stereotyping be abandoned.

The new manual's analysis of Kibei culture and disloyalty is especially illuminating with regard to the invocation of stereotypes by intelligence and security officers more generally.<sup>148</sup> The manual contains, for example, lengthy quotations from a book published in 1907, *Japan: An Attempt at Interpretation*, by Lafcadio Hearn, the Irish-American humorist and ethnographic writer. Cited by the manual's authors as the source of "one of the clearest expositions of the Japanese social structure and psychological pattern," Hearn is quoted to the effect that "the extraordinary capacity of the Japanese for communal organization, is the strongest possible evidence of their unfitness for any modern democratic form of government." The manual's authors also rely on Hearn for a long discussion of the patriarchal structure of the Japanese family and for assertions as to the allegedly unwavering deference of Japanese youth to their elders. "Most of the characteristics of the Japanese family recorded by Hearn have been noted among the Japanese of Hawaii," the manual states. (However, the manual does acknowledge the increasing disintegration of Japanese family patterns, particularly in the urban areas, and a certain degree of role reversal between the Nisei and their Issei parents after the beginning of the war.)

Restricting its attention to those Kibei who spent three or more years in Japan following their twelfth birthday, the manual states that, on the whole,

Kibei will display far more pro-Japanese sentiment than will other Nisei. It is of interest to note that the Japanese community itself considers the Kibei to be the most dangerous class in their midst.

The manual also asserts that the District Intelligence Office of the navy considered those Kibei with long periods of residence in Japan to be "dangerous to the internal security of the United States," having received "most, if not all, of their formal education in Japan, with the concomitant indoctrination of Emperor

<sup>148</sup>In fact, transcripts of various interrogations that led to internment decisions that we have examined in the course of this research are riddled with stereotyping of precisely the sort that the navy's manual expresses.

worship and other phases of Japanese nationalism." Family ties, significant period of residency, educational experience, and other aspects of their former residence in Japan, according to the manual, should serve as evidentiary support for a presumption of disloyalty. "Protestations of loyalty to the United States made by Japanese," according to the manual, "should be weighed in the light of the speaker's background and tested by the motives he may have for making such statements."<sup>149</sup>

In accord with the manual's bias and instructions, the Kibei were routinely viewed as likely to be conflicted in loyalty by the duties traditionally owed to family and the Japanese state. Accordingly, loyalty interrogation protocol, as set forth in the manual, was calibrated to uncover "potential" disloyalty by testing the subject's willingness to disregard parents or country, rather than simply asking whether the speaker wanted the United States to prevail in military conflict. For example, interrogators had been asking subjects who professed loyalty to the American cause whether they would agree to enlist and take up arms against Japan—and if so, whether they would be willing to kill in combat any relatives who were serving in the Japanese armed forces. Some suspects were asked whether they would assassinate Emperor Hirohito, if given the chance. The manual warned interrogators, on this point, that many who worshiped the emperor—and thereby were to be deemed faithful to the "theocratic-militaristic-totalitarian state that is Japan"—would give false replies to such questions, being "realistic enough to compromise their scruples in order to remain at liberty."<sup>150</sup> One question often put to Kibei that posed an especially serious moral dilemma for them was whether they would be willing to broadcast anti-emperor propaganda on the radio, even though it might jeopardize the safety or lives of the family members living in Japan with whom they were likely to have maintained contact.

In the end, it was virtually a "no-win" game for the persons under interrogation, because intelligence officers began to assess positive answers to these latter questions not as evidence of loyalty to America but rather as evidence of "typical" Japanese deviousness; that is, persons who actually were disloyal had simply learned to give the "right" answers and thus mask their anti-American views.

The attitude and stereotyping that had characterized the early-war security operations and were embodied in the navy manual were also often explicitly exhibited by officers at

<sup>149</sup>Navy DIO Manual, August 1943, 60.

<sup>150</sup>Ibid. 52.

the highest levels of the military hierarchy. For example, in 1942, General DeWitt—the obsessively anti-Japanese officer in charge of the Western Defense Command and the leading proponent of the internment of Nikkei on the West Coast—had argued that all Kibei were, ipso facto, loyal to Japan. DeWitt favored internment for all Kibei for the duration of the war, nullifying their U.S. citizenship, and deporting them to Japan after the war had ended.<sup>151</sup> When the War Department reevaluated internment policy in 1944, Lt. General Robert C. Richardson, who had succeeded Emmons in July 1943, would advise the department that, among the 135 Kibei then interned in Hawai'i, some had admitted loyalty to Japan, but about one hundred of them

have either made statements of loyalty to the United States or have made no statements to indicate their loyalty either way, or have made evasive statements. . . . Despite the fact that so many have made statements of loyalty to the United States, it is my opinion based on findings of Hearing Boards and intelligence reports that they are dangerous to the security of the United States and that their utterances of loyalty are inconsistent with their backgrounds and training in Japan.<sup>152</sup>

The OMG staff officers in charge of policy toward the ethnic Japanese in Hawai'i would systematically continue to cast doubt on the loyalty of the Kibei down to the last day of the war in 1945, and even beyond. The attitude of these officers was rooted, no doubt, partly in unvarnished racial prejudice. But their conviction that the Kibei constituted a uniquely dangerous potential threat to security had also been fueled by a viral spread of rumors in December 1941 and early 1942 about alleged sabotage and espionage by persons of Japanese ances-

<sup>151</sup>Robinson, *By Order of the President* (Cambridge, MA, 2001), 182. DeWitt was notorious for his public statement, "A Jap is a Jap," with regard to the alleged danger posed by the Nikkei on the West Coast. When the government, in 1943, first considered screening West Coast evacuees to ascertain loyalty, the project was hotly opposed by DeWitt, who told the provost marshal general, "There isn't such a thing as a loyal Japanese and it is just impossible to determine their loyalty by investigation—it just can't be done." Telephone call transcript, 14 Jan. 1943, quoted in Muller, *American Inquisition*, 33. DeWitt's role is extensively analyzed by Peter Irons in *Justice at War: The Story of the Japanese Internment* (New York, 1983).

<sup>152</sup>Richardson to Asst. Sec. of War John McCloy, 2 Feb. 1944, in Daniels, ed., *American Concentration Camps*.

try in connection with the Pearl Harbor debacle.<sup>153</sup> Especially damaging in this regard was a press conference statement by Secretary of the Navy Knox on December 15: "I think the most effective 'fifth column' work of the entire war was done in Hawaii, with the possible exception of Norway."<sup>154</sup> Despite vigorous denials of such rumors by the FBI and others, they persisted both in Hawai'i and on the mainland. Such anti-Japanese sentiment was further fueled by the Roberts Commission report on the Pearl Harbor debacle, made public on January 24, 1942. Although its only reference to subversive activities was the mention of some espionage by Japanese spies in the months before the attack, including some consular agents and others "having no open relations with the Japanese foreign service," the report concluded, "[I]t is now apparent that through their intelligence service the Japanese had complete information."<sup>155</sup> The media focused on this finding as evidence that the Nikkei in America could not be trusted.

Hostile racial attitudes were given further strength, as the war went on, by the extraordinary expansion of security-sensitive military and naval installations and activities in Hawai'i, which was the base of logistic operations for the entire Pacific theater of war; by the reports of the atrocities committed by Japanese forces against Allied prisoners of war; and, perhaps above all, by the news of mounting Allied casualties filtered back to Hawai'i from the western Pacific combat areas, and the arrival of hospital ships carrying the wounded and the bodies of the fallen.

General Emmons, but even more so his successor, General Richardson, adamantly contended that the stringent control exercised by the army over civilian life through martial law—and especially the internments and other security measures target-

<sup>153</sup>For discussion of rumors, see Allen, *Hawaii's War Years*, 47–56, and Roland Kotani, *The Japanese in Hawaii: A Century of Struggle* (Honolulu, 1985), 87–88. Rear Admiral Kimmel had written on December 12, 1941, that "[f]ifth column activities added great confusion" on December 7. Kimmel is quoted in Otto Friedrich, "A Time of Agony for Japanese Americans," *Time Magazine*, Dec. 2, 1991, <http://www.time.com/time/magazine/article/0,9171,974371,00.html>. Lind argues that these rumors were instrumental in the decision for the mass evacuation of Japanese from the West Coast of the mainland. Lind, *Hawaii's Japanese*, ch. 3.

<sup>154</sup>Quoted in Kashima, *Judgment without Trial*, 75. On Secretary Knox and his campaign for evacuation and his allegations of sabotage on December 7, see also Roger Daniels, *Prisoners without Trial: Japanese Americans in World War II* (1993; New York, 2004), 37 et passim.

<sup>155</sup>The report of the Roberts Commission, headed by Supreme Court Justice Owen Roberts, is available at <http://www.ibiblio.org/pha/pha/roberts/roberts.html>. For a discussion of its impact, see Robinson, *By Order of the President*, 95–97.

ed at the Nikkei community in the martial law context—were responsible for the successful maintenance of internal security. Richardson and his subordinate officers in the OMG presented Washington with all the arguments and political influence they could muster in their resistance to pressures that they relax any policies that were directed at Kibei or other groups' suspected disloyalty and possible subversion. Even as late as April 1945, when the internees from the West Coast mainland states were being released from the camps and the government was beginning to wind down security operations, Richardson's staff officers in Hawai'i were still asserting that the Nikkei population "would *unanimously* prefer Oriental control [of the Territory] and are sentimentally if not actively loyal to Japan"<sup>156</sup>—this despite the fact that the Hawaiian Nisei had volunteered in great numbers for active military service and had achieved an exceptional record for valor, with Kibei serving, in particular, as translators and interpreters.<sup>157</sup>

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### LOYALTY, RESISTANCE, AND RENUNCIATION

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The matter of determining the loyalty of the Nikkei population, and especially of the Kibei, gained striking new importance in early 1943. Despite an earlier War Department study urging that "the military potential of the United States citizens of Japanese ancestry be considered as negative because of the universal distrust in which they are held,"<sup>158</sup> Assistant Secretary of War John McCloy and the administration decided in January 1943 to create an all-Nisei combat unit and to allow Nisei

<sup>156</sup>Captain Stanley D. Arnold to chief, Japanese-American branch, Office of the Provost Marshal General, from "Hawaiian-Japanese," memorandum, 4 June 1945, RG 389, entry 480, box 1723, National Archives. Emphasis added.

<sup>157</sup>Of the nearly 32,200 Hawaiian men inducted by the Selective Service, 49.9 percent were Nisei. When the army called for Nisei volunteers in 1943, 40 percent of Nisei men between the ages of 18 and 35 tried to register. Allen, *Hawaii's War Years*, 263–73. Of the 2,000–3,000 Nisei used in army intelligence as translators, 40 percent were Hawaiian. Hazama and Komeiji, *Okage Sama De*, 167. See also Lind, *Hawaii's Japanese*, 187–88. For further information on Hawai'i's Nisei soldiers in World War II, see, among others, University of Hawai'i, "The Hawai'i Nisei Story: Americans of Japanese Ancestry During World War II," <http://nisei.hawaii.edu/page/home>; Masayo Duus and Peter Duus, *Unlikely Liberators: The Men of the 100<sup>th</sup> and 442<sup>nd</sup>* (Honolulu, 1987) and Edwin M. Nakasone, *The Nisei Soldier: Historical Essays on World War II and the Korean War* (White Bear Lake, MN, 1999).

<sup>158</sup>The report, approved Sept. 14, 1942, is quoted in CWRIC, *Personal Justice Denied*, ch.7.

to volunteer for the military.<sup>159</sup> In order to effect this dramatic reversal of policy, the army devised a loyalty questionnaire to be completed by all Nisei applicants for military service that would reveal "tendencies of loyalty or disloyalty to the United States."<sup>160</sup> Each applicant's loyalty would then be reviewed by military intelligence and the FBI, with a joint military board making the final decision.

In February 1943, the War Relocation Authority, which had been looking for a means to give leave clearance to some of the evacuees so they could work outside the camps, seized on this procedure to determine the loyalty of all the evacuees being held in their camps, from Hawai'i and the mainland, men and women, Issei and Nisei alike, over the age of seventeen. The WRA accordingly designed a companion questionnaire, "Application for Leave Clearance," that differed only slightly from the army's.<sup>161</sup>

The questionnaire, forced on the residents of the camps without notice or coherent explanation, created a crisis for many of the confined Nikkei, who did not know why they were being made to answer the questionnaire or how the information would be used. Some Issei were afraid of being cast out of the camps and into hostile environments where they could not survive; some Nisei thought the questionnaire was designed to force them to volunteer to fight for the country that had stripped them of their civil liberties and imprisoned them without cause. The racially segregated all-Nisei combat unit was cited by some as further evidence of continued discrimina-

<sup>159</sup>CWRIC, *Personal Justice Denied*, ch.7.

<sup>160</sup>Office of Provost Marshal General, memorandum for the record, 9 Jan. 1943, quoted in CWRIC, *Personal Justice Denied*, ch. 7. The origins of the segregation policy were the subject of a memorandum to J. Edgar Hoover, FBI director, dated March 8, 1943, from Edward Ennis, head of the Justice Department's Alien Enemy Control Unit, reporting that an arrangement had been concluded with the WRA "in the interests of promoting the success of a difficult task in administering the war relocation camps involving the detention of citizens and aliens together. . . ." It was agreed "that a limited number of troublesome Japanese aliens would be taken and interned even though their conduct did not establish subversive activity under the standards heretofore applied." Quoted in Richard Drinnon, *Keeper of Concentration Camps: Dillon S. Myer and American Racism* (Berkeley, CA, 1987), 75. Drinnon, a student of the period who is highly critical of WRA Director Myer, stated that this gave "Myer's WRA an open hunting season on Issei 'troublemakers.'" *Ibid.*

<sup>161</sup>Dillon S. Myer, *Uprooted Americans*, 71-72; CWRIC, *Personal Justice Denied*, ch. 7; Robinson, *By Order of the President*, 168-69; Kashima, *Judgment without Trial*, 161. Muller, *American Inquisition*, ch. 5; Daniels, *Asian America*, 261-63.

tion. Still others feared that the questionnaire would result in their being separated from their families.<sup>162</sup>

The questionnaires sought biographical information as well as information on such subjects as education in Japan; relatives in, and trips to, Japan; dual citizenship; and memberships in organizations. Particularly troublesome were questions 27 and 28. The first asked, "Are you willing to serve in the Armed Forces of the United States on combat duty, wherever ordered?" Question 28 was even more problematic: "Will you swear unqualified allegiance to the United States of America and faithfully defend the United States from any and all attack by foreign or domestic forces, and foreswear any form of allegiance or obedience to the Japanese emperor, or any other foreign government, power or organization?" The Issei were thus being asked to give up allegiance to the only country of which they could be citizens, rendering them stateless; that question was later changed for them, to ask if they would "swear to abide by the laws of the United States and to take no action which would in any way interfere with the war effort of the United States."<sup>163</sup>

As the Commission on Wartime Relocation and Internment of Civilians was to conclude in 1982,

[T]he loyalty questionnaire demanded a personal expression of position from each evacuee. . . . Most evacuees probably had deeply ambiguous feelings about a government in whose rhetorical values of liberty and equality they wanted to believe, but who found their present treatment a painful contradiction of those values. The loyalty questionnaire left little room to express that ambiguity.<sup>164</sup>

A significant number of the internees—including the Hawaiian evacuees—originally answered "no" to question 28, or refused to answer, citing the fact that they had been interned. Of a group of 138 Hawaiians who were not subsequently sent to Tule Lake for being pro-Japanese but who were still confined in mainland camps in 1945, twenty-six (nearly one-fifth)—all citizens or dual citizens—refused to answer question 28, or answered negatively because they had been interned. Others gave a qualified "yes," citing their uncertainty because of

<sup>162</sup>For further discussion of these issues, see sources cited in previous footnote.

<sup>163</sup>Myer, *Uprooted Americans*, 72.

<sup>164</sup>CWRIC, *Personal Justice Denied*, ch. 7.

their internment.<sup>165</sup> The report on Kunitoshi Marumoto, a dual citizen, was fairly typical of the findings on internees who were not overtly pro-Japanese:

Did not answer Question 28, but appended the following statement, "Has been loyal to US and was willing to pledge allegiance to US but having been suspected and accused by the Govt. of being pro-Japanese and having been interned and retained as an internee after having stated his loyalty to the US and his willingness to defend the US, although he will abide by the laws of the US and will in no way interfere with the war effort it will be impossible to swear allegiance when the Govt. will not recognize it."<sup>166</sup>

The plight of the Kibei was particularly poignant. As one mainland Kibei explained,

It was hardly a simple yes-or-no matter. We were members of the same ethnic minority as the issei. . . . Moreover, our two generations were naturally related as members of the same households, as parents and children. . . . To choose the one (pledging one's loyalty to America) meant hoping for the total destruction of the other (Japan), and here lay the cruel ramification of the issue. To pledge our loyalty to America meant collaborating in the killing and wounding of people who lived in Japan, the denial of a personal connection based on a shared culture. This denial was a source of particular anguish for Kibei like myself who were American by birth and citizenship but who had also lived and studied in Japan.<sup>167</sup>

For the Kibei who were asked to volunteer for the armed services, there was the very personal dilemma:

My big concern was, what if I meet up with someone I know at the warfront? My relative, my classmate, my

<sup>165</sup>War Relocation Authority, "Summaries of the Activities of Persons of Japanese Ancestry."

<sup>166</sup>Ibid.

<sup>167</sup>Minoru Kiyota, *Beyond Loyalty: The Story of a Kibei* (Honolulu, 1997), 97.

good friends, you know. What [sic] am I supposed to react? That was my biggest concern.<sup>168</sup>

For some, renouncing the Japanese emperor, who was regarded as a deity, was especially troubling. As one investigative report on a Hawaiian Kibei stated, "His religious beliefs reveal that he believes Hirohito to be a descendant of the sun Goddess . . . and that anything he does must be right." Therefore, the report continued, in this internee's view Japan would be justified in attacking Pearl Harbor if the emperor approved, and if the emperor broadcast that he should not aid the American war effort, he would obey that order.<sup>169</sup>

Some families had one relative fighting in the Japanese army and another in the U.S. Army. While some Kibei were genuinely confused as to how to answer, and others were pressured to say "no" by radical pro-Japanese elements in the camps, others may be assumed to have answered in a manner that would best promote their self-interests and gain them release from internment.<sup>170</sup>

The results of the questionnaire varied from camp to camp, with the Tule Lake camp being the most extreme. Some 3,000 internees there refused to complete the questionnaire.<sup>171</sup> In total, of nearly 78,000 residents of the WRA camps who were eligible to register, 87 percent responded to the loyalty question with an unqualified "yes." The remainder, including more than 20 percent of the Kibei and other Nisei men, answered "no," refused to answer, or qualified their answers.<sup>172</sup>

<sup>168</sup>Interview of Takejiro Higa, "The Hawai'i Nisei Story." Higa, it should be noted, was not interned, but the conflicted feelings he expressed likely pertained to many Kibei of draft age, however loyal. Higa had left Japan to avoid conscription into the Japanese army, but he nonetheless chose to volunteer for the U.S. Army.

<sup>169</sup>War Relocation Authority, "Summaries of the Activities of Persons of Japanese Ancestry."

<sup>170</sup>Most of those who answered "no" to questions 27 and 28 and were suspected by the authorities of being pro-Japanese were subsequently sent to the Tule Lake internment camp, often being separated from their families in the process.

<sup>171</sup>CWRIC, *Personal Justice Denied*, ch. 7; Myer, *Uprooted Americans*, 73.

<sup>172</sup>Ibid. Of the total, 5,300 answered "no," and more than 4,600 refused to answer or qualified their answer. It is noteworthy that in Hawai'i, where there had not been mass evacuation, nearly 10,000 Nisei—about one-third of draft-age men—volunteered for the army. This expression of patriotism was in marked contrast to the views of the evacuated Nisei. See Jacobus tenBroek, Edward N. Barnhart, and Floyd W. Matson, *Prejudice, War, and the Constitution* (Berkeley, CA, 1954), 168 (noting that only 1,181 Nisei then in the camps, or 6 percent of those eligible in that group, volunteered; the army had hoped for 3,500).

The results of the loyalty questionnaires helped tip the balance in favor of those in the armed services, Congress, and the administration who advocated segregating the "loyal" from the "disloyal" Nikkei. In May, Secretary of War Stimson instructed Myer that the WRA should immediately "screen out from the centers and segregate in close confinement all individuals appearing to have pro-Japanese sympathies."<sup>173</sup> Although the WRA had earlier objected to the proposal of General DeWitt, head of the Western Defense Command, to segregate all Kibei, Myer now agreed to the new policy, and Tule Lake was selected as the segregation center. The segregants included (1) those who had applied for repatriation to Japan and had not withdrawn their applications by July 1, 1943; (2) those who had answered "no" or had refused to answer the loyalty question; (3) those who had been denied leave clearance because of adverse findings; (4) aliens from the Department of Justice camps who had been recommended for detention; and (5) family members of segregants who elected to remain with the family.<sup>174</sup>

Because of the confusion over question 28, a new set of hearings was offered to those who had answered "no" or refused to answer. A number of the Hawaiian excludées changed their answers to an unqualified "yes" when given a second chance, citing, as the reasons for their original answers, confusion, frustration at having been interned, acting under pressure, or fear of being separated from their families. Most of this group were not segregated.<sup>175</sup> Many others, however, adhered to their original answers, expressed anger at the way they had been treated, and asked to be repatriated to Japan. Of the total of 1,037 Hawaiians who had been evacuated to the mainland in late 1942 and early 1943 and had been confined at Jerome, Arkansas, or Topaz, Utah, 340—approximately one-third—were transferred to the Tule Lake Segregation Center. One hundred thirty-one of this number requested repatriation or expatriation to Japan, 180 were sent because of their answers to the loyalty question, and 9 "for other reasons." The total included 165 single persons and 155 in family groups; 327 (260 males and 67 females) were U.S. citizens, presumably mainly Kibei and their

<sup>173</sup>Quoted in Myer, *Uprooted Americans*, 75.

<sup>174</sup>*Ibid.*, 76.

<sup>175</sup>War Relocation Authority, "Summaries of the Activities of Persons of Japanese Ancestry."

families.<sup>176</sup> Additional transfers of Hawaiian Nikkei brought the total to 656 by July 1944.<sup>177</sup>

At Tule Lake, the segregants were subjected to a situation of chaos and intimidation, both from pro-Japanese gangs composed of internees and from the officials running the camp. A large number decided in 1944 and early 1945 to renounce their American citizenship.<sup>178</sup> Hence the course of events at Tule Lake—and especially, for our purposes here, the role of Hawaiian Kibei in those events—requires brief examination and appraisal. Such an appraisal can usefully begin with the fact that by August 1945 at least fifty-five, possibly many more, of the Hawaiian internees at Tule Lake had formally renounced American citizenship.<sup>179</sup> Such renunciation was made possible by the Nationality Act of June 1944, enacted by Congress in response to wartime anti-Japanese sentiment (much of it focused specifically on events at Tule Lake itself). This legislation authorized renunciation by dual citizens who also were citizens of a country at war with the United States.<sup>180</sup>

To various government leaders and intelligence officers at the time, the fact that several thousand Tule Lake internees, including these Hawaiian Kibei, had chosen to return to Japan when afforded the opportunity was evidence that these renunciants were thoroughly disloyal, and hence that they had posed a tangible

<sup>176</sup>Myer to Farrington, 22 Nov. 1943, RG 210, box 280, folder 39.034 A2, National Archives.

<sup>177</sup>"Segregant Population of Tule Lake as of July 1944 by Area of Pre-War (1 December 1941) Residence Compared to 1940 Census of Japanese, and by Place from Which Segregated," WDC-CAD-Research Branch, September 4, 1944, copy in JERS files, reel 170, Bancroft Library, University of California, Berkeley.

<sup>178</sup>The history of the Tule Lake Center and the disturbances that occurred there is well documented, beginning with contemporary analyses undertaken by the WRA itself and by the University of California, Berkeley, group of social scientists who studied the removal and internments. A convenient recapitulation of the facts and a concise accounting of the resistance and the renunciations are provided in Donald E. Collins, *Native American Aliens: Disloyalty and the Renunciation of Citizenship by Japanese-Americans during World War II* (Westport, CT, 1985). Documents illustrating the dilemma that renunciation posed for those who were incarcerated, particularly at the Tule Lake Center, are discussed in the recent article by Gwen E. Granados, "The Federal Government and Citizenship: Archival Resources at the National Archives in Laguna Nguel," *Western Legal History* 20 (2007): 73–83.

<sup>179</sup>This number may well include those who had indicated a wish to repatriate prior to their removal to the Tule Lake camp. The number of 55 represents those former Hawai'i residents listed as plaintiffs in the *Abo* case and is computed from court filings and other papers found in the Wayne Collins Papers in the Bancroft Library, UC Berkeley. There likely were more than 55 from Hawai'i, but place of residence in 1940 is not given for all plaintiffs in the listing. On the litigation, see *infra*, pp. 82 ff.

<sup>180</sup>18 U.S. Code Annotated sec. 801 (1940), 58 Stat. 677 (amended 1944). See discussion in tenBroek et al., *Prejudice, War, and the Constitution*, 315–17; also Collins, *Native American Aliens*, 5–6 et passim.

potential danger to wartime security. Of course, this view was advanced to justify the entire removal and internment program.

To other contemporary observers, however, including some officials closest to the situation on the ground, the Tule Lake story was far more complex. In their view, events were driven only in part by the disloyalty and pro-Japanese sentiments truly harbored by some internees, including those organized into militant pro-Japanese gangs, but other factors were of at least equal importance. Not least of those factors were the confusion, fear, and hostility that were inspired by government actions and, more generally, the lack of respect and the harsh treatment to which the internees had been subjected.<sup>181</sup> Among the important factors contributing to the disillusionment of those who said they had once been loyal—including some who had sought in vain to volunteer for combat service with the U.S. forces—were the conditions of pathological social disorder and breakdown of rules enforcement at the Tule Lake Center. In an affidavit placed on record in later legal proceedings, for example, the former assistant project director of the Tule Lake Center recalled that the internees' morale and their sense of loyalty had been eroded by "the frustration and depression" induced, as he wrote,

by living abnormal, regimented lives in an abnormal, regimented government center; the crowded, dismal barracks; the unpalatable food . . . ; lack of privacy in the community lavatories and laundry rooms; the "concentration camp" atmosphere of the daily routine; and the feeling that the "rights of man" as applied to other citizens and other aliens did not apply to them.<sup>182</sup>

<sup>181</sup>One of the most damaging missteps made by the WRA director's office and camp administrators, provoking a reaction from internees that escalated into a cycle of resistance and coercion, involved giving out incorrect information as to criminal penalties that officials believed would be risked by those not filling in the questionnaires. The FBI was called in, a ranking army official had to face an angry meeting of internees, arrests were made, and amidst the growing anger and disruptions, the WRA in Washington had to inform the camp administrators that their understanding of the law had been misguided. By then, the dynamic of unrest and resistance had taken on too much momentum to stem the tide of rising resistance to all supervisory efforts. Copies of relevant administrative correspondence reflecting the confusion are in reels 170 and 171, JERS files, Bancroft Library. See especially WRA director [Myer] to H. Coverley, project director, Tule Lake Relocation Center, 26 Feb. 1943; id. to id., 27 Feb. 1946 (stating, "I am sorry we got you out on a limb regarding the arrests. . . ."); see also Myer, *Uprooted Americans*, 72–80; and, for an account critical of the administrators' actions, on the intensive cycle of tense confrontations later in 1943 that culminated in the army's declaring martial law in the center, Dorothy Swaine Thomas and Richard S. Nishimoto, *The Spoilage: Japanese-American Evacuation and Resettlement during World War II* (Los Angeles, 1969), 113–46.

<sup>182</sup>Harry L. Black (former assistant project director, Tule Lake Center), affidavit (1946), reprinted in Collins, *Native American Aliens*, 136.

In a landmark case in which the Ninth Circuit Court of Appeals would later accept the renunciants' claims that they had given up their citizenship under duress at Tule Lake, Chief Judge William Denman stated that "the oppressive conditions prevailing there . . . were in large part caused or made possible by the action and inaction of those government officials" whom he deemed responsible for "the oppressiveness of this imprisonment."<sup>183</sup> Indeed, the conditions, demonstrations, and violence became so bad that martial law was imposed on Tule Lake from early November 1943 to mid-January 1944.

From the detailed archival records of the government's evaluation interviews with these renunciants, it is clear that the great majority had declared themselves loyal to the United States in earlier screenings; but their attestations of loyalty had been deemed spurious by the review boards and intelligence officers, leading not only to their internment at Tule Lake, but also to the loss of their personal loyalty. Their pleas for confrontation of the witnesses and evidence being used against them had been ignored, and they had been subjected to what they viewed as arbitrary and degrading treatment during their forcible removal to the mainland. In some of the reports, the officials explicitly stated that no tangible evidence of disloyal or dangerous activity had been found.<sup>184</sup> The hearing boards' condemnation of suspects was based heavily on the fact that these persons were Kibei; so that if interrogators or review boards were unconvinced of a suspect's sincer-

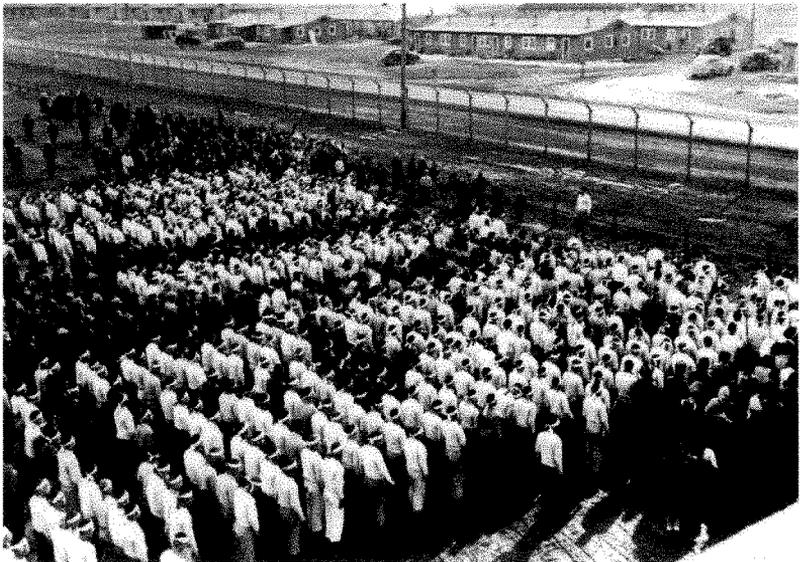
<sup>183</sup>*McGrath v. Abo*, 186 F. 2<sup>nd</sup> 766 (1951) at 768. See also tenBroek et al., *Prejudice, War, and the Constitution*, 316–21. See *infra*, pp. 83–86, for discussion of the Ninth Circuit case. The low point for abusive administration at the Tule Lake Center came in the summer of 1944, when the authorities imprisoned rebellious and allegedly violent protestors in a stockade, a situation investigated (with little cooperation from the camp authorities) by Ernest Besig for the American Civil Liberties Union. Essentially evicted from the camp, Besig issued press releases on what he had found, charging that there had been blatant failure of due process at best, and reporting charges of extreme violence against some of the prisoners at the hands of the camp's security policy. See Drinnon, *Keeper of Concentration Camps*, 126–33. Besig also brought the situation to the attention of San Francisco attorney Wayne Collins, who would take up the leadership of a legal campaign to obtain justice for the Tule Lake prisoners who were held in the stockade there, and later for the large number who became reluctant "renunciants." *Ibid.*, 133–36. See *infra*, pp. 82–84.

<sup>184</sup>War Relocation Authority, "Summaries of the Activities of Persons of Japanese Ancestry Since Arriving on the Mainland after Evacuation from Hawaii Who Are Now Residing at Tule Lake Center, Newell, California, July 2, 1945," RG 210, box 280, folder 39.034, #1, National Archives.

ity or found the individual's answers "evasive," then little or nothing more was needed to warrant internment.<sup>185</sup>

The nearly 19,000 internees at Tule Lake included a significant proportion of Kibei evacuated from the West Coast states, later joined by a small cohort of Hawaiian Kibei evacuees. Together with mainland Kibei and with other Nisei internees (or "colonists," as the WRA euphemistically termed these prisoners), a number of the Hawaiian men became prominent in a determined resistance to disciplinary rule in the camp, in a movement that had begun during the 1943 registration campaign and had become progressively more

<sup>185</sup>"Minutes of the Meetings of the Internee Review Board, June 1943–April 1944," RG 494, box 327, National Archives. In three of the fifteen decisions documented in these minutes, the board was willing to grant parole on the explicit condition, "if no resentment shown." (Ibid.) Reviewers cited "evasiveness" as sufficient reason for an adverse finding in many of the several score individual loyalty review files for 1943 and 1944 that the authors have examined.



At Tule Lake, members of a pro-Japanese group, Hokoku Seinen Dan, gathered opposite the administration area in preparation for a mass demonstration. (Courtesy of the National Archives)

militant.<sup>186</sup> This resistance included an organized campaign to undermine the government's loyalty reviews during the registration campaign preliminary to instituting a Selective Service draft of citizen and dual citizen internees in 1944. Their resistance also included violent action. Thus young Kibei were among the men who were disciplined—and in one instance thrown into a stockade, then shipped off to a local civilian jail—for being members of pro-Japanese gangs that had beaten fellow internees. These beatings were inflicted on supposed informers and others who cooperated with the authorities and attested to their loyalty to the United States by filling out registration forms that included the notorious questions 27 and 28.<sup>187</sup>

Officials and security personnel in several of the WRA camps and centers, not only at Tule Lake, had reported from the outset of their operations that Kibei were often prominent in the ranks of "troublemakers," forming the core of support for disloyal, pro-Japanese activities (marches and demonstrations, denunciation of government rules, circulation of rumors said often to be based on propaganda broadcasts from Tokyo, strikes against job assignments and pay, and various types of spontaneous disruptions). Indeed, in his recollections of his WRA experience, former director Myer contended that the Hawai'i evacuees had proven especially rebellious. General Emmons had misled him, he complained, as to the character of the persons evacuated from Hawai'i and sent to the WRA facilities. After these evacuees had arrived at the Jerome and Topaz camps, Myer wrote, "We soon realized . . . that we had a bunch of very tough young men." Following the "segregation" interviews for assessment of loyalty conducted in 1943, "these hard-nosed toughs" were transferred to Tule Lake and became "the nucleus for the strong-armed squad that served the purposes of the group in power" (the latter consisting of earlier-interned mainland Nisei, Issei, and some Kibei) during the height of violent

<sup>186</sup>A discussion of the registration campaign and the resistance to it, sparked by the resentment and confusion engendered by the notorious questionnaire with its questions 27 and 28, is provided in Muller, *American Inquisition*, 31–106. See also Gary Okihiro, "Tule Lake Under Martial Law: A Study of Japanese Resistance," *Journal of Ethnic Studies* 5 (1977): 71–85.

<sup>187</sup>Thomas and Nishimoto, *The Spoilage*, ch. 6 (on martial law imposed from November 13, 1943 to January 15, 1944); tenBroek et al., *Prejudice, War and the Constitution*, 164–66; and Drinnon, *Keeper of Concentration Camps*, 117–57.



A local newspaper reported on a violent outbreak at Tule Lake. (Courtesy of the Shaw Historical Library, Oregon Institute of Technology)

outbreaks in November 1943.<sup>188</sup> On similar lines, a WRA attorney at Tule Lake reported that the younger Kibei, presumably including some of those from Hawai'i, had often done "the dirty work" of beatings and other actions aimed at intimidating other Tule Lake internees, although they did so under the control of an "insider" group of gang leaders who kept themselves under cover.<sup>189</sup> Precise numbers are impossible to come by in any attempt to assess the degree to which Hawai'i Kibei were involved as foot soldiers, let alone as "inside" leaders, of resistance and violence at Tule Lake. It should be noted, however, that Hawaiians were only

<sup>188</sup>Dillon S. Myer, *Uprooted Americans*, 243–44. Myer also recounted briefly (*ibid.*, 63) an uprising at the Manzanar camp in which a Hawaiian-born World War I veteran, Harry Kurihari, took a prominent role. Kurihari, Myer wrote, "turned his back on America because he thought America had turned its back on him"—a familiar theme running through the personal histories of many internees, as reflected in their testimony in loyalty investigations and interviews.

<sup>189</sup>The principal "agitators," he wrote, "rarely come out into the open themselves but used the young Kibei, with whom they were well supplied, to do the dirty work." Tony O'Brien to Glick, 17 March 1945, in JERS files, reel 170, Bancroft Library.

a small proportion—about 3.5 percent in mid-1944—of the total number of internees at Tule Lake.<sup>190</sup>

For the Hawaiian Kibei and other internees who played no part in subversion or violence, becoming the hapless victims of intimidation and disorder, their incarceration at Tule Lake was a nightmare. For those in the relocation centers who reasserted their loyalty to the United States, including those who accepted conscription into the Armed Forces, it required extraordinary courage to endure.

It must be remembered that all of the incarcerated Nikkei, including those who were steadfast in declaring loyalty, had undergone the physical and psychological hardships of removal and transfer—often multiple transfers—over a period of two to four years. They had also been subjected to repeated interrogations and loyalty interviews—first, for the Hawaiian group, on initial arrest and incarceration; again when the government ordered loyalty determinations in 1943 for all persons held in the relocation centers, so as to implement the combined leave clearance/military service volunteer registration program; yet again for the “segregation” to Tule Lake of those deemed disloyal or potentially dangerous; and still again during the registration procedure for Selective Service inductions when Nisei were subject to the draft in early 1944, with answers to the infamous questionnaire as its chief focus. For anyone suspected of a role in the disruptions, there was further questioning by the camp officials, the FBI, or army officers; and for those who were the victims of disruption or violence, there was interrogation in the effort to identify those who should be apprehended. With what degree of fairness these procedures were conducted—and how frightening or confusing, or at a minimum how offensive to their sense of dignity they must have been for these people undergoing such reiterated evaluations—is an issue that must be given weight in any accounting of the government’s and the army’s record on the home front in the World War II years.

<sup>190</sup>Eight men from Hawai‘i were among 67 segregants who, having declared loyalty to Japan, were therefore removed from Tule Lake to two other WRA facilities in February 1945 to await processing for repatriation to Japan. Two of the eight were identified as having participated in violent and “subversive” activities. “Appendix F: Departures for Klamath Falls,” n.d. but refers to removals in February and March 1943, copy in JERS collection, reel 170, Bancroft Library. According to the Western Defense Command, Hawaiians constituted 656 of the total of 18,599 segregants at Tule Lake as of July 1944. “Segregant Population of Tule Lake as of July 1944,” WDC-CAD-Research Branch, September 4, 1944, reel 170, copy in JERS files, Bancroft Library.

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## HABEAS CORPUS AND LEGAL ISSUES

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The army's handling of the question of Nikkei loyalty in Hawai'i had, from the first, been based on the OMG's control of security through martial law. Of particular concern was the issue of habeas corpus, which had led the army to parole many of the Nisei and Kibei interned in Hawai'i and release them to the WRA centers. In early 1943, as the loyalty questionnaires were focusing attention on loyalty and security, the army leaders in Hawai'i were concerned that, if they lost control over the federal court's jurisdiction, the issue of habeas corpus could weaken the grip they held on life in the islands. The War Department was unwavering until near the end of 1942 in resisting pressures for any substantial transfer back to civilian government of the comprehensive controls over territorial government generally (in addition to internment power and the closing of the federal court to habeas appeals) that the army had assumed under martial law. Still, the political pressures to curtail martial law continued—from the Interior Department, the Justice Department, and Ingram Stainback, who had replaced Poindexter as governor of the Territory of Hawai'i in August 1942—much to the chagrin of the generals on the ground in Honolulu. Although not advocating that the federal court in Hawai'i be permitted to hear habeas petitions, in January 1943 Assistant Secretary of War McCloy instructed General Emmons that it was desirable to take a generous view "in the direction of returning functions to the civilian authorities"<sup>191</sup>—an ominous sign, from the OMG's standpoint, that it might find McCloy a weak ally if the habeas issue should become a prime target for further inroads on army rule.<sup>192</sup>

The Supreme Court's decision to hear argument in the *Hirabayashi* case was taken by Governor Stainback (himself a former federal judge) to indicate that "any military rules that might be necessary for the protection of the Islands could be enforced in the federal court"—another ominous sign that political pressure was mounting and could involve the habeas

<sup>191</sup>As reported in a letter from McCloy to Fortas, 24 Jan. 1943, McCloy files, RG 107, National Archives.

<sup>192</sup>Indeed, following negotiations among the Departments of Justice, War, and the Interior, a partial restoration of government functions to civilian authorities took effect on March 10, 1943, "Restoration Day"; the civilian courts were reopened for cases not involving security; and food and price controls as well as censorship of civilian mail were turned over to civilian authorities. In other respects, however, martial law was continued, and the right to petition for a writ of habeas corpus remained suspended. Scheiber and Scheiber, "Bayonets in Paradise," 542-59.

question as well as other aspects of the jurisdiction of Judge Metzger's district court.<sup>193</sup>

Remarkably, the right to petition for a habeas corpus hearing nonetheless remained in suspension in Hawai'i for more than two-and-a-half years after the Pearl Harbor attack. This situation was perpetuated because army orders under martial law had initially closed the federal district court for Hawai'i. Although in 1942 the OMG did permit that court to hear non-jury cases, it kept in effect a complete ban on the court's entertaining petitions for habeas corpus hearings. Judge Delbert Metzger, U.S. district court judge for the territory, complied with the army's orders closing his court immediately after the Pearl Harbor attack and consented to obey OMG orders curbing his court's jurisdiction. However, in response to a request for a writ of habeas corpus presented on behalf of a detained German-American citizen, Hans Zimmerman, Metzger declared, in a formal order in early 1942, that it was only because he was "under duress by reason of the Order and not free to carry on the function of the court in a manner in which the court conceives to be its duty" that he had accepted the army's imposition of curbs on his jurisdictional authority.<sup>194</sup> How much longer Judge Metzger, a notoriously independent-minded and feisty individual, would permit the army to impose these restrictions on his court remained an open question—a question that was of deep concern to the generals and legal staff in the OMG throughout the first eighteen months of the war.

As the OMG staff had feared, Judge Metzger did decide to open his court to a habeas petition on August 16, 1943. The case involved two German-American internees. Once Metzger opened his court's doors to the action, a scene of high drama would unfold during the resulting confrontation. The army refused to produce the prisoners, and when the court tried to have its federal marshal serve the writ on General Richardson, the marshal was roughed up by military police officers. Judge Metzger charged Richardson with contempt, levying a heavy fine. Richardson then issued General Order 31, which prohibited all pending and future habeas proceedings in Hawai'i, specifically ordered Metzger to drop proceedings in the pending cases, and threatened violators (Judge Metzger) with a military trial and the possibility of five years at hard labor for disobedience of his gen-

<sup>193</sup>Stainback to Ickes, 9 Aug. 1943, in Hawai'i file, Ickes Papers, Library of Congress.

<sup>194</sup>Quoted in Anthony, *Hawaii Under Army Rule*, 62–63. On Judge Metzger's career and character, see H. Brett Melendy, "Delbert E. Metzger, Hawai'i's Liberal Judge," *Hawai'ian Journal of History* 35 (2001): 43–63 (his wartime opinions are discussed at pp. 53–56).

eral orders. The crisis was quieted, thanks to interventions by the War Department's top civilian officials and the army's judge advocate general, who were unwilling to back Richardson's behavior in seeking to intimidate a federal judge.<sup>195</sup>

The notoriety of the confrontation had a larger effect, bringing into sharp relief the conflict between martial law and civil liberties. By giving the habeas corpus issue a sharpened focus, the confrontation increased the pressures on the OMG to relax its insistence that suspension of the right of petition for habeas corpus was essential to security in Hawai'i. Of special significance was the fact that the U.S. solicitor general, Charles Fahey, weighed in during the crisis, counseling that Judge Metzger should be permitted to go forward with the hearing and the army should simply appeal to the Ninth Circuit if the district court decision was unfavorable to the OMG position and acted on the habeas petition.<sup>196</sup> In October, Fahey took a still stronger position, going directly to Assistant Secretary of War McCloy to advise that the OMG, as a matter of policy, should be prohibited from further stonewalling on the habeas policy question. Cases such as the one that had become so confrontational in Metzger's courtroom, Fahey declared, "should be permitted to take a normal course of solution by judicial processes rather than by the exercise of military power."<sup>197</sup>

A letter from Secretary of the Interior Ickes (whose department in peacetime was responsible for the administration of Hawai'i) to McCloy, in the immediate wake of the Richardson-Metzger confrontation, encapsulated the view of both Ickes' own department and the Department of Justice as they sustained their campaign to curb the reach of martial law: "I would like to see the courts decide the habeas corpus issues," Ickes wrote. "If we are still an orderly and constitutional government the courts are the place to settle that issue."<sup>198</sup>

Still, McCloy held firm. Although he continued to counsel the army to loosen its grip on civilian government agencies in their administrative activities, he was not yet prepared to require General Richardson to reverse the OMG's legal position with regard to habeas corpus. McCloy's intransigence on the

<sup>195</sup>Scheiber and Scheiber, "Bayonets in Paradise," 571-72; and Anthony, *Hawaii Under Army Rule*, 64-77. General Richardson ultimately released the prisoners, Glockner and Seifert, in San Francisco, thus rendering the case moot.

<sup>196</sup>Fahey's position was reported in the memorandum of a telephone conversation, Col. Scobey and Lt. Col. Hughes (JAGC), 25 Aug. 1943, McCloy files, RG 107, National Archives.

<sup>197</sup>Fahey to McCloy, 9 Oct. 1943, McCloy files, RG 107, National Archives.

<sup>198</sup>Ickes to McCloy, 20 Aug. 1943, copy in Ickes Papers, Library of Congress.

issue was probably influenced by the view of some army staff lawyers that to permit Metzger's court to hear habeas petitions without challenge "would immediately open those gates for an awful lot of bad people. There wouldn't be anything to prevent the others [in internment] from making similar application, and you have got to draw the line somewhere."<sup>199</sup> Richardson, meanwhile, worked his personal influence, declaring that his prestige as commanding general and "military governor" depended on his having the upper hand over Metzger's court. Appealing personally in a phone call to McCloy, Richardson asserted that if the army's position on habeas was undermined, the resulting court proceedings would balloon into "a litigation as to whether or not we shall have martial law in Hawaii." He regarded Metzger as oblivious to the reality of Hawai'i's position as the fulcrum of war zone operations, and predicted that "no matter what is before the court, I feel that he will order the release of [internees] pending an appeal . . . [and] every single general order that we have issued to date would simply go out of the window."<sup>200</sup>

Richardson's position reflected the advice being given him by his legal staff officers in the OMG. They were asserting that there was special danger in the possibility that many internees in Hawai'i who were Japanese-American citizens, including the many Kibei then interned, would exercise their rights as citizens and bring petitions for habeas hearings. It would be a disaster for military rule and imperil the safety of the islands, Richardson was told, both because it would represent a high-profile challenge to the general's authority and, more concretely, because it would risk the release of disloyal persons who could observe or sabotage military operations. Thus, in a December 1943 legal memorandum for use by Col. William Morrison (who had succeeded Green as "executive" for civilian governance and as chief legal officer in the OMG), a Judge Advocate General Corps lawyer laid out the legal situation. "It is only in the Territory of Hawaii that internment of citizens is possible," the memo advised, "and without the authority of martial law such internment would be impossible."<sup>201</sup> So long as martial law was in effect, the OMG thought it would be on firm legal ground in keeping U.S. citizens interned on Hawai-

<sup>199</sup>Capt. Hall, in telephone transcript, 18 Aug. 1943, copy in McCloy files, RG 107, National Archives.

<sup>200</sup>Richardson and McCloy, memorandum of phone conversation, 3 Sept. 1943, McCloy files, RG 107, National Archives.

<sup>201</sup>Maj. Louis F. Springer to Morrison, memorandum, "Interned American Citizens of Japanese Ancestry," 31 Dec. 1943, RG 494, box 39, National Archives.

ian soil; so long as martial law remained in effect as the army had defined it, it suspended any citizen's constitutional right to file a petition of habeas corpus that would permit a court to test the legality of the citizen's confinement if a prisoner of the army. Richardson's chief staff lawyer at the OMG predicted that if Judge Metzger had his way, "security here in Hawaii may, in the ultimate analysis, be subject to a determination in every single case of a local judge."<sup>202</sup>

Meanwhile, the army and the FBI were continuing to investigate and take into custody throughout 1943 and 1944 both Japanese aliens and Nisei, with special concern to identify disloyalty and root out the alleged danger in the Kibei element of the citizen group.<sup>203</sup> With the closure of the Sand Island facility in early 1943, those imprisoned in Hawai'i were now placed in the internment camp near Ewa at Honouliuli, where they were incarcerated alongside a facility that held Japanese prisoners of war.<sup>204</sup> Hence the army had under its legal control as internees within the territory several hundred persons—135 of them identified in OMG correspondence in early February 1944 as Kibei.<sup>205</sup> The OMG insisted that these citizens must be denied their constitutional right to have a federal judge conduct a hearing on the reasons why they were taken into custody and the adequacy of the purported evidence on which the army had incarcerated them.

<sup>202</sup>[Morrison] memorandum for Gen Richardson, 20 Jan. 1944, Richardson Reading File, RG 338, National Archives.

<sup>203</sup>From January 1943 through June 1944, 670 cases of American citizens were heard, resulting in 220 individuals being interned; in the same period, 359 cases of aliens were heard, with 180 individuals being interned. It should be noted that also during this period, there was a dramatic increase in the number of releases for Nisei and Kibei, with 248 "released" in January and February for relocation in the WRA centers on the mainland. "Original Action: Releases, Internments, Paroles, Rehearings within the Hawaiian Group, Ordered by the Commanding General, Central Pacific Area, 7 December 1941–June 1944," RG 494, entry 22, box 151, National Archives.

<sup>204</sup>Although the Honouliuli facility, like the other camps, was surrounded by barbed wire and patrolled by armed guards, those guards were apparently less hostile than the guards on the mainland. See *supra*, p. 28, and Kashima, *Judgment Without Trial*, 85. See <http://archives.starbulletin.com/2004/06/02/news/story1.html> for the recollections of two Kibei who were detained there and reported that their treatment was not unduly harsh; one of them "took English classes, played his violin and attended Christian services on Sundays, when he prayed for the war to end." *Ibid.*

<sup>205</sup>One hundred of these Kibei were described by the OMG as loyal, and 35 as disloyal. Morrison to McCloy, 1 Feb. 1944, in Daniels, ed, *American Concentration Camps*. The peak population of Honouliuli was about 320. Among those interned there were Thomas Sakakihara, a former territorial representative, and Sanji Abe, a territorial senator. Japanese Cultural Center of Hawai'i, *Never Again*, 11.

Figure 1: Orders Issued, U.S. Citizens \*

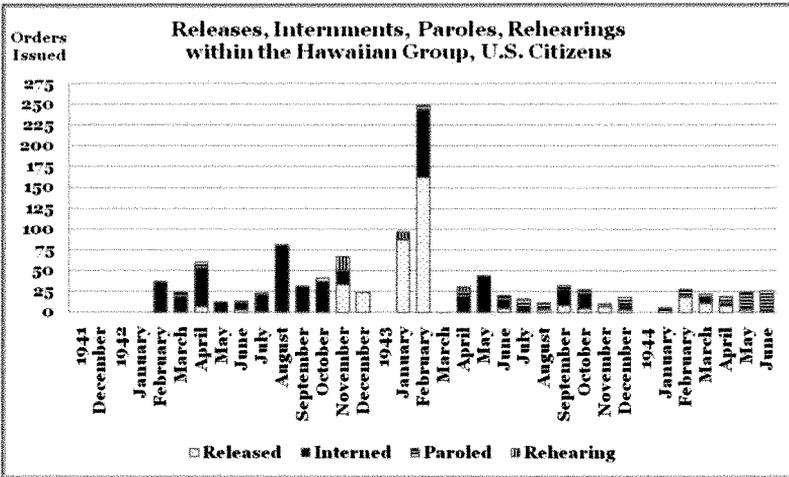
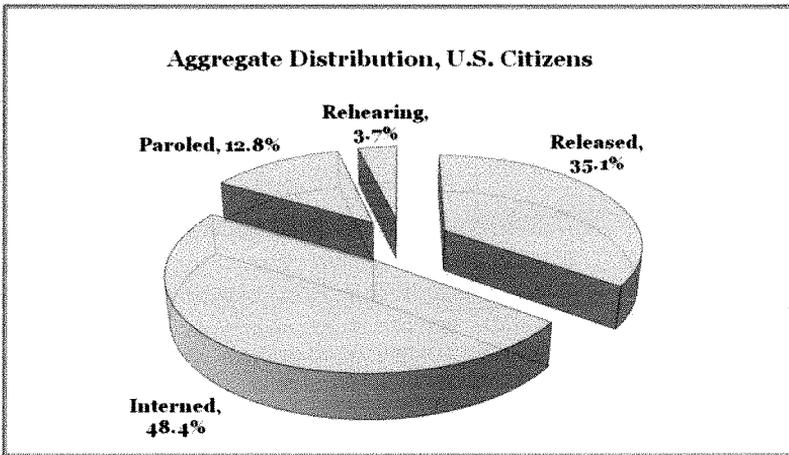


Figure 2: Aggregate Distribution, U.S. Citizens \*



\*From document entitled "Ordered by the commanding general, Central Pacific Area. Declassified 6 June 2008, Authority NND927556 [JG NARA]. Approved for Publication: E.P. Hardenbergh, Major T.C." Source: Office of Military Governor, USAFICPA G-4, National Archives. [Charts reconstructed from their original.] Period: 7 December 1941 to 30 June 1944.

NB: The category "releases" includes the so-called gangplank releases in January and February 1943. See text at note 125.

Figure 3: Orders Issued, Non-U.S. Citizens \*

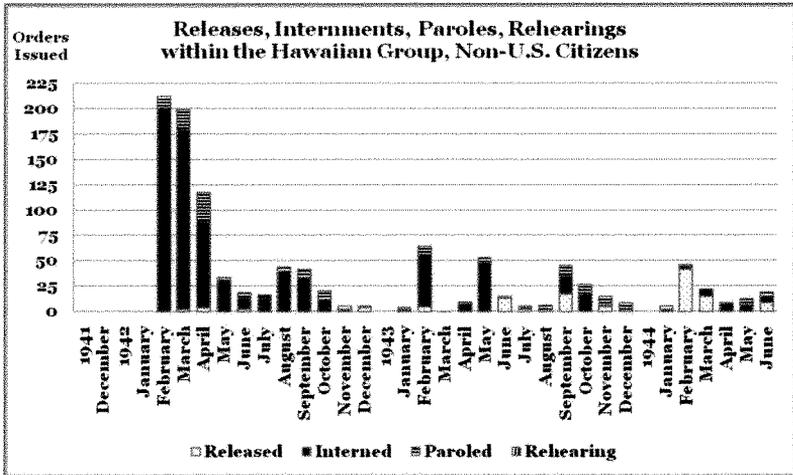
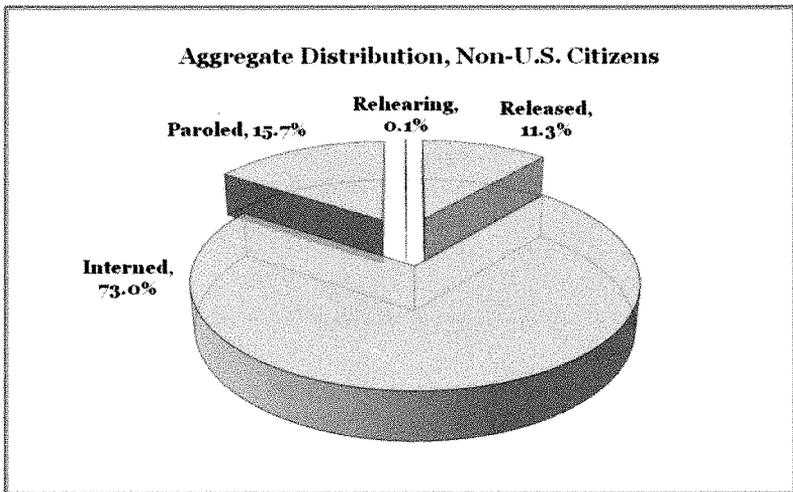


Figure 4: Aggregate Distribution, Non-U.S. Citizens \*



\* Source the same as for figures 1 and 2.

Apart from the criticisms levied against the OMG by the Interior Department and Department of Justice officials, there were new pressures in 1944 that threatened to make General Richardson's hard-line position almost certainly politically untenable. First, widespread publicity was given to a hearing in Congress in which the necessity for the more comprehensive suspension of civil liberties in Hawai'i was prominently questioned. Second, editorials in mainland newspapers and radio commentators had begun to criticize the army's heavy-handed methods of dealing with civil affairs in the islands—with some of the harshest criticism, ironically, coming from right-wing conservatives who portrayed the Hawai'i regime as evidence of what they had long declared were President Roosevelt's dictatorial ambitions and style. Finally, converging with these pressures from outside, in Hawai'i itself members of the bar and some local political organizations had begun to give public voice to demands for a restoration of constitutional rights.<sup>206</sup>

None of the criticism that was now being heard was focused on the army's treatment of Nikkei, let alone on the Kibei and their fate; instead it was concerned with the martial law regime at the more general level. Nonetheless, the emergence of the open criticism of the army's policies in Hawai'i threatened to make the impasse on the habeas issue all the more prominent—impelling Richardson and his legal staff to design new measures to foreclose the possibility of habeas petitions that they felt would, at a minimum, undermine their prestige and, in a worse case, threaten the security of the islands.

The OMG therefore intensified its efforts to win federal agency support for its suspension of habeas corpus under martial law. These efforts reached a fever pitch in 1944 with a series of conversations within the Legal Section of the OMG, led by Colonel Eugene Slattery, in search of new legal theories for continued internment of Kibei. A memo by a Judge Advocate General lawyer, Archibald King, who was privy to these communications, notes that "it was stated [by Slattery and other OMG staff] that, as martial law is likely soon to be abolished in Hawaii, it is desired to find some legal theory upon which [Kibei] internment may be continued after its abolition."<sup>207</sup> Slattery proposed, as one possibility, new federal legislation that would divest Kibei of their American nationality by consequence of years spent in Japan either receiving education or performing military ser-

<sup>206</sup>Anthony, *Hawaii Under Army Rule*, 105–18; Scheiber and Scheiber, "Bayonets in Paradise," 611–13.

<sup>207</sup>Col. Archibald King, memorandum for the files, "Japanese Internees in Hawaii," 8 Sept. 1944, RG 494, entry 22, box 148, National Archives.

vice.<sup>208</sup> The OMG staff was aware that members of Congress were discussing proposals for establishment of a hearings board that could strip citizens of their American nationality based on the content of their written statements, such as negative answers to loyalty questions. The OMG staff discussion did not win support in Washington, but it reflected an environment of great anxiety within the Legal Section of the OMG concerning the likely overturn of its internment decisions in any habeas challenge.<sup>209</sup>

For Richardson, the habeas issue, the necessity for martial law, and the Kibei issue were elaborately intertwined. Basing his opinion on the findings of the hearing boards and intelligence reports, Richardson wrote to McCloy about the Kibei in February 1944:

I now propose to evacuate from Hawaii for resettlement in war relocation centers on the mainland of the United States those [interned] Kibeis who have professed loyalty to the United States for the reason that if any one of them should institute habeas corpus proceedings in the local United States District Court, we might not be able to present a strong case against them.<sup>210</sup>

The Kibei thus transferred—along with their families—would be formally released from internment and placed in custody of the War Relocation Authority. On the other hand, Richardson continued, the Kibei who stated before the hearing board that they were loyal to Japan would continue to be interned in Hawai'i. "Should any of them petition for a writ of habeas corpus it is believed that our case against them is so sufficient that a court would not order their release from internment."<sup>211</sup>

Despite the virtual moratorium placed upon Hawaiian evacuation in March 1943, Colonel Morrison proposed to the War Department that the OMG be permitted to transfer approximately 135 Kibei and their families to the mainland, claiming

<sup>208</sup>R.W. Flournoy to Hackworth, "Disloyal Japanese Americans: Proposed Measures for Their Expatriation and Deportation, Conference with Colonel King and Colonel Slattery," 6 Sept. 1944, *ibid.*

<sup>209</sup>For the concrete proposals as presented twice in this period, see Congressional Record, February 23 and June 23, 1944, in Daniels, ed., *American Concentration Camps*.

<sup>210</sup>Richardson to J.J. McCloy, letter, 1 Feb. 1944, RG 494, entry 11, box 39, National Archives.

<sup>211</sup>*Ibid.*

that the Honouliuli internment camp was overcrowded.<sup>212</sup> McCloy swiftly rejected the proposal on learning that these evacuees would be sent to the Tule Lake segregation camp, which was already congested and volatile at that time. McCloy proposed instead that the OMG resolve its internee overcapacity problem by paroling the least dangerous of the Kibei.<sup>213</sup>

Morrison responded, in turn, that McCloy's proposal was impractical. Security requirements made it imperative, he wrote, that the OMG continue its policy of interning American citizens and Kibei in the territory. He added that assurances of War Department support were needed in the event that new habeas corpus litigation should arise and threaten the release of internees being held in the islands.<sup>214</sup>

As Washington leaned towards the abolition of martial law in Hawai'i and the release of the Kibei who were interned there, the OMG remained recalcitrant, insisting on the necessity of its security policy as long as the war was still raging in the Pacific. Prohibited from continuing to evacuate Kibei to the mainland and seared by growing pressure from Washington to terminate martial law, the OMG developed a last-ditch legal alternative to evacuation—exclusion.

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## THE EXCLUSION PROGRAM

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Exclusion, at its core, was little more than the forced evacuation of Nisei citizens, including Kibei, to the mainland, but with one fundamental legal difference from internment. Since mainland authorities lacked the legal power to intern Hawai'i Kibei or to enforce their parole, the OMG was unable to evacuate Kibei without facing severe criticism for sending a purportedly dangerous population group to roam freely on the mainland. Consequently, the OMG developed a new strategy to remove Kibei from the territory. At the OMG's request, the president issued Executive Order 9489, signed on October 18, 1944, which authorized Richardson to designate the Territory of Hawai'i or any part thereof a military area, over which he would possess authority as the military commander. This au-

<sup>212</sup>Ibid.

<sup>213</sup>Secretary of War McCloy to Brigadier General William R.C. Morrison, memorandum, 5 Feb. 1944, RG 494, entry 11, box 39, National Archives.

<sup>214</sup>Brigadier General William R.C. Morrison to Secretary of War McCloy, memorandum, 10 Feb. 1944, RG 494, entry 11, box 39, National Archives.

thority included the power to order the exclusion of individuals from the designated military area.<sup>215</sup>

In essence, Executive Order 9489 thus gave to the Hawaii Command the same authority that Executive Order 9066 had given to the Western Defense Command, which had resulted in the mass removals of the ethnic Japanese population from the West Coast; its result, however, was far less disastrous for Hawai'i's Nikkei population generally than Executive Order 9066 had been for the mainland Nikkei.

On October 24, 1944—the very day that martial law in Hawai'i was formally terminated—General Richardson issued Public Proclamation No. 1 of the military commander of the Territory of Hawaii Military Area, designating the entire Territory of Hawai'i a military area.<sup>216</sup> He declared that “any or all such persons will be ordered excluded or evacuated from the Territory of Hawaii Military Area or from any part thereof by the Military Commander whenever such exclusion is necessary to prevent espionage or sabotage.”<sup>217</sup>

In the months preceding this proclamation, officials in the Legal Section of the OMG had compiled lists of Kibei and other dual citizens to be excluded from the territory, and the first 70 Kibei selected for exclusion were already identified the day before Richardson's proclamation.<sup>218</sup> Following a hearing for the suspects, the results of which were a foregone conclusion, the Hawaii Command shipped the first group of excludees from the port of Honolulu on November 8, 1944, just two weeks after the proclamation went into effect.<sup>219</sup> By war's end, a total of 73

<sup>215</sup>For background, see Scheiber and Scheiber, “Bayonets in Paradise,” 594–95, 607–11.

<sup>216</sup>Major Robert B. Griffith to Brigadier General William R.C. Morrison, memorandum, “Exclusion Procedure in the Territory of Hawaii Military Area,” 13 Nov. 1945, RG 494, entry 22, box 148, National Archives. N.B. With the termination of martial law, the Office of the Military Governor became the Hawaii Command.

<sup>217</sup>*Ibid.* Richardson's proclamation was modeled closely on documents solicited from the Western Defense Command and Eastern Defense Command that were used in the mass removal of the ethnic Japanese from the West Coast and selected areas in the eastern United States. Major Chas. A. Middleton to Col. William R.C. Morrison, memorandum, “Individual Exclusion Order Procedure,” 11 Sept. 1944 [forwarding two copies of Individual Exclusion Order Procedure, Headquarters Western Defense Command and Fourth Army, as of September 1, 1942], RG 494, entry 22, box 148, National Archives.

<sup>218</sup>“Dual Citizens Selected for Exclusion from Territory of Hawaii Military Area,” Oct. 23, 1944, RG 494, entry 22, box 148, National Archives.

<sup>219</sup>“Sailing List of Seventy-One Hawaiian Excludees,” Nov. 8, 1944, RG 494, entry 22, box 148, National Archives.

exclusees had been sent to Tule Lake, 67 in the first group and an additional 6 in July 1945.<sup>220</sup>

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### RETURNEE ISSUES

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However, in late 1944 and early 1945, even as the Hawaii Command was sending exclusees to Tule Lake, consensus had formed in Washington against the continued internment and exclusion of the Nikkei. Indeed, in January 1945, the Western Defense Command rescinded its mass exclusion orders against West Coast Nikkei from the mainland.

In Hawai'i, too, discussion began in earnest by early 1945, as the war entered its final phase, as to the return of the Hawaiian Nikkei evacuees and internees to the Territory of Hawai'i. On December 18, 1944, the U.S. Supreme Court had ruled, in the *Endo* case, that it was unconstitutional to continue to detain a citizen who had been certified as loyal by the internment authorities. This ruling was in the background as the military considered the issue of the release and return of Hawaiian Nisei and Kibei who were still in custody.<sup>221</sup> As early as January 1945, William Morrison, who had been promoted to brigadier general and whose office was now called the Office of Internal Security (OIS) in Hawai'i,<sup>222</sup> stated that he found it proper to permit Japanese civilian internees currently on parole on the mainland, and who had children in the armed forces of the United States, to return to Hawai'i.<sup>223</sup> The initial policy shift toward the return of the Hawaiian Nikkei thus was inspired in

<sup>220</sup>Dillon S. Myer, director, War Relocation Authority, to Assistant Secretary of War Davidson Sommers, memorandum, 3 Aug. 1945, RG 494, entry 11, box 32, National Archives.

<sup>221</sup>*Ex parte Endo*, 323 U.S. 283 (1944).

<sup>222</sup>The OIS was successor to the office of the "executive" (the office originally held by Col. Green) under the old OMG organization, and was the office administering civil government affairs and implementation of security policies.

<sup>223</sup>Brigadier General Morrison, OIS, to Office of the Provost Marshal General, memorandum, "Japanese Civilian Internees from the Territory of Hawaii with Sons in the Armed Forces of the United States," 16 January 1945, RG 494, entry 11, box 32, National Archives. With no precedent in the return of Japanese evacuees to Hawai'i, the Hawaii Command requested that the provost marshal general's office make the arrangements to transport these individuals back to the territory.

part by recognition of the contributions being made by some evacuees and their families toward the war effort.<sup>224</sup>

This sentiment was echoed in Washington and among the Hawaiian Nikkei evacuee population itself. In February 1945, Secretary of the Interior Harold Ickes wrote to Secretary of War Henry L. Stimson, contrasting the relaxation of restrictions on mainland Nikkei with the evacuation and exclusionary orders that were still in place against the Hawaiian Nikkei. Ickes was particularly concerned that "many of the Hawaiians who were voluntarily evacuated in 1943 agreed to being evacuated to the United States, in part at least, as a matter of patriotic cooperation with the authorities," while others, who had declined to evacuate the Territory of Hawai'i, had subsequently been released from the Honouliuli internment camp and returned to their homes in Hawai'i. A sense of injustice was rising among the voluntary evacuee population, who "feel that their cooperation with the Army authorities has resulted in a worse situation for themselves than for those who elected not to cooperate."<sup>225</sup>

General Richardson was asked to comment on Secretary Ickes' proposal to initiate a return procedure for the Hawaiian Nikkei in March 1945, when, it must be noted, the Pacific theater was still the scene of intense combat. Richardson proposed that, taking into consideration the current military situation and the developments in mainland policy toward Nikkei, a return of the Hawaiian evacuees could be started so long as the "proper precautions" were taken to ensure that disloyal persons were not returned to the territory.<sup>226</sup> He subsequently proposed that a board of officers review the case of each

<sup>224</sup>Memorandum to Brigadier General William R.C. Morrison, "Japanese Civilian Internees from the Territory of Hawaii with Sons and Daughters in the Armed Forces of the United States," 12 Jan. 1945, RG 389, entry 480, box 1723, National Archives [describing a point system for determining priority return status for evacuees, which favored elderly individuals, persons who were evacuated before January 1, 1943, and persons with sons or daughters in the U.S. armed forces].

<sup>225</sup>Secretary of the Interior Harold L. Ickes to Secretary of War Henry L. Stimson, memorandum, 14 February 1945, RG 494, entry 11, box 32, National Archives. Ickes also noted that the OMG had initially led the federal authorities to believe that the Hawaiian-Japanese evacuees did not pose a security risk to the mainland, but that in practice many received exclusionary orders from Western Defense Command, and some (such as the former war workers whom the OMG demanded be kept separate from other Japanese seeking repatriation) were designated for segregation.

<sup>226</sup>General Richardson to commander-in-chief, Pacific Ocean Areas, memorandum, "Return of Hawaiian Evacuees to Homeland," 23 March 1945, RG 494, entry 11, box 32, National Archives.

evacuee and assign priority status for return.<sup>227</sup> The priority group system would give preference to individuals with sons or daughters in the armed forces of the United States, the aged, the infirm, and to "persons deserving of such consideration because of unusual circumstances."<sup>228</sup>

Richardson recognized, however, that the army's ability to bring all of the evacuees home by the end of 1945—nine months off—was contingent on available transport.<sup>229</sup> He also expressed the caveat that "there may be some individuals among these evacuees whose return . . . will not be recommended for security reasons," specifically including the 67 Hawaiian Nikkei who were excluded in 1944; continued retention on the mainland, he insisted, was necessary for these security risks.<sup>230</sup> Richardson's memorandum indicates that his headquarters was continuing to plan for the exclusion of some Hawaiian Nikkei late into the war, and indeed a small group of Hawaiian excludées were sent to Tule Lake as late as July 1945.<sup>231</sup>

The shortage of transport, however, was not the only obstacle to the return of the Hawaiian internees and evacuees. Because the Hawaiian Nikkei who had been transferred to the mainland had landed on the West Coast en route to relocation camps, the Western Defense Command had issued several hundred individual exclusion orders against Hawaiian evacuees and excludées. These orders were based on the OMG's earlier summary findings, as the Western Defense Command did not have access to the files or materials by which the OMG had

<sup>227</sup>General Richardson to the adjutant general, War Department, memorandum, "Return of Hawaiian Evacuees to Homeland," 17 April 1945, RG 494, entry 11, box 32, National Archives.

<sup>228</sup>Ibid.

<sup>229</sup>The challenge of finding space for returnee Nikkei on ships going from the mainland to Hawai'i was difficult for at least two reasons: First, the flow of troops and supplies out to the combat zones, with Hawai'i as the mid-Pacific staging area, of course had priority on transport; and, second, Secretary Ickes, Governor Stainback, and other elective officials pressed the army to use what space did become available to expedite the return of haole (Caucasian) and other civilians who (fearful of a Japanese invasion) had heeded army warnings after the Pearl Harbor raid and voluntarily left Hawai'i for the mainland. The number of these "strandees" in March 1944 was said to be 5,000. John Frank to Abe Fortas, memorandum, 31 March 1944, Fortas files, RG 48, Department of the Interior Records, National Archives.

<sup>230</sup>General Richardson to the adjutant general, War Department, memorandum, "Return of Hawaiian Evacuees to Homeland," 17 April 1945, RG 494, entry 11, box 32, National Archives.

<sup>231</sup>Dillon S. Myer, War Relocation Authority, to Major Davidson Sommers, Office of the Assistant Secretary of War, memorandum, 3 Aug. 1945, RG 494, entry 11, box 32, National Archives. See *supra*, p. 73 at note 220.

made its decisions.<sup>232</sup> Accordingly, when the Western Defense Command allowed the mainland Nikkei to return to the West Coast, it left in place some 491 individual exclusion orders against Hawaiian Nikkei evacuees and excludees. The Hawaiian Kibei and the other individuals in this contingent thus found themselves in legal limbo.<sup>233</sup>

By spring 1945, it had become imperative that these individual exclusion orders be lifted; otherwise the Hawaiians could not return through West Coast ports.<sup>234</sup> Captain Stanley D. Arnold of the Japanese American Branch was assigned by the Western Defense Command to travel to Honolulu, review the files, and summarize the relevant information.<sup>235</sup> In addition to gathering information from the review board documents, Arnold was tasked with gathering information on the OMG's security program.<sup>236</sup>

On his month-long mission, Arnold collected and examined copies of hundreds of records, and he personally interviewed numerous army staff officials regarding their assessments of the Hawaiian Nikkei, generating a rich documentary record of the Hawaiian military government in the war's final months. In his candid report to the Western Defense Command, Arnold declared that the ostensible success of the Hawaiian security program owed less to the OMG's administrative talents than to the flexibility and privilege afforded it by the duration and

<sup>232</sup>Draft memorandum, "Hawaiian Excludees and Personnel Security Program," spring 1945, RG 389, entry 480, box 1723, National Archives.

<sup>233</sup>In addition to the 491 still excluded, Arnold found that 657 Hawaiian evacuees on the mainland were not excluded from the West Coast. (These statistics are from Captain Arnold's report, in RG 389, entry 480, box 1723, National Archives.) The group that remained excluded by WDC were primarily male and between twenty and forty years of age, the prime demographics for Kibei evacuees and excludees. In contrast, of the 657 Hawaiian evacuees not excluded by WDC, 68 percent were female and 62 percent were below the age of twenty—indicating that they were almost certainly mainly the voluntary evacuees who had followed their family members to the mainland.

<sup>234</sup>Major Clarence R. Harbert to Colonel Alton C. Miller, memorandum, "Return of Japanese to Hawaii," 17 Jan. 1945, RG 389, entry 480, box 1723, National Archives.

<sup>235</sup>Col. A.B. Johnson, assistant to the provost marshal general, to the adjutant general, memorandum, "Temporary Duty Orders outside Continental Boundaries," 6 April 1945, RG 389, entry 480, box 1723, National Archives. On the organization and functions of the Japanese American Branch and the Japanese American Joint Board, each of which played an important role in loyalty determination processes, see Muller, *American Inquisition*, 39–65.

<sup>236</sup>Draft memorandum, "Hawaiian Excludees and Personnel Security Program," spring 1945, RG 389, entry 480, box 1723, National Archives.

scope of martial law in the territory.<sup>237</sup> At the same time, Arnold asserted that

the Hawaiian Department made no mistake in ridding themselves of [the evacuees and internees], and that security agencies in continental United States were exercising sound discretion when as a matter of policy they regarded every Hawaiian Japanese evacuee or internee with considerable doubt as to his loyalty.<sup>238</sup>

Arnold was struck in particular by the insularity of the Kibei population, noting that "many Kibei have been back to Hawaii as long as ten years without learning even one word of the English language, as it is not necessary for them to associate or transact business with Caucasians in view of the heavy Japanese population."<sup>239</sup> Arnold summarized the Kibei in the following way: "Their conception of government is the Japanese Consul, their spiritual guide, the Buddhist Church and the Shinto Shrine, their economic source, the pineapple planter or the fishing boat operator."<sup>240</sup>

Meanwhile, Richardson's staff proceeded to implement a policy aimed at granting return to the large majority of voluntary evacuees and their families. The review procedure that they developed, however, was slow, individualized, and discretionary. Hence, it resulted in considerable delay, even as the Department of the Interior was eager to complete the process before the relocation camps were shuttered by the end of 1945.<sup>241</sup> By late May, the commanding general's review board had approved the return of 393 Hawaiian Nikkei formerly interned on the mainland or placed in mainland relocation centers. These individuals were divided into six priority groups. Groups I, II, and III were composed of individuals and their dependents who had sons or daughters in the U.S. armed forces. Groups IV, V, and VI contained citizens and aliens considered by the board in the normal course of review. But the task was far from complete: as one security officer noted, a total of 705 aliens had been evacuated to the mainland for internment and

<sup>237</sup>Captain Stanley J. Arnold to chief, Japanese-American Branch, Office of the Provost Marshal General, memorandum, "Hawaiian Japanese," 4 June 1945, RG 389, entry 480, box 1723, National Archives.

<sup>238</sup>*Ibid.*

<sup>239</sup>*Ibid.*

<sup>240</sup>*Ibid.*

<sup>241</sup>In fact, the last persons did not leave the Tule Lake center until March 1946.

1,040 citizens and aliens had been evacuated to relocation centers, for a total of 1,745 individuals.<sup>242</sup>

Dillon S. Myer, the director of the WRA, warned that unless the return procedure could be expedited substantially, many evacuees would be required to relocate temporarily on the mainland once the relocation camps closed. Moreover, Myer cautioned, the WRA would soon be unable to cover the costs of ocean transportation, requiring a greater financial contribution from the army.<sup>243</sup> Thus, by August 1945, the mainland authorities were in agreement that the return of the evacuees to the territory was necessary and that the Hawaii Command needed to expedite the process before the mainland WRA bureaucracy was shut down altogether. Richardson's headquarters, in contrast, was pursuing a more cautious approach, slowly processing individual return applications and leaving the matter of ocean transportation to the mainland authorities to resolve.

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### THE END OF THE WAR

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This seeming impasse between the Hawaii Command and the mainland authorities was broken only by the sudden

<sup>242</sup>Colonel Louis F. Springer to Brigadier General William R.C. Morrison, memorandum, "Evacuees of Japanese Ancestry Approved for Return to Territory of Hawaii," 25 May 1945, RG 494, entry 11, box 32, National Archives. As with previous sets of figures, however, these numbers were contested in documents prepared by the mainland authorities. An August 10, 1945, memorandum from the WRA's Dillon Myer to Major Davidson Sommers stated that the WRA originally received 1,136 Hawaiian-Japanese evacuees, in addition to the 73 excludées sent to Tule Lake between 1944 and July 1945. As of August 10, Myer reported that only four of the 1,136 evacuees had returned to Hawai'i, with 65 others designated for inclusion in an early movement. Six hundred twenty-eight individuals were located in Tule Lake, while 319 evacuees were located in other camps. Additionally, Myer noted that 65 individuals had relocated permanently to the mainland, and 55 individuals had died, been interned, or repatriated to Japan. Dillon S. Myer to Major Davidson Sommers, memorandum, 10 August 1945, RG 494, entry 11, box 32, National Archives. These figures from Myer's memorandum differ from the official WRA report, *The Evacuated People*, which states that 1,037 evacuees were received at the WRA camps between November 1942 and March 1943, with another eight voluntary evacuees arriving in 1943-44. A total of 73 excludées from Hawai'i arrived between November 1944 and July 1945, with 99 Hawaiians paroled or released from DOJ internment camps entering the WRA centers from 1942 to 1944. WRA, *The Evacuated People*, 191.

<sup>243</sup>The WRA notified the OMG of this financial problem in an August 13 memorandum exhorting General Richardson to expedite action for return of the evacuee population before WRA funding dried up. Harrison A. Gerhardt, executive to assistant secretary of war, to General Richardson, memorandum, 13 Aug. 1945, RG 494, entry 11, box 32, National Archives.

conclusion of hostilities between the United States and Japan in late August 1945. On August 27, 1945, General Richardson notified the War Department that he had rescinded all orders that had been issued by the OMG or the Hawaii Command under Presidential Proclamation No. 2525 (invoking the Enemy Aliens Act) and Presidential Executive Order No. 9489 (designating a military commander for the territory of Hawai'i and authorizing him to prescribe the territory as a military area), there being no further military necessity for them. With the approval of the War Department, Richardson also released immediately after V-J Day all alien enemies in internment in Hawai'i and on parole from internment.<sup>244</sup> As of August 29, there were 18 aliens and 4 Kibei interned in the Honouliuli internment camp.<sup>245</sup> In addition, 47 individuals in the territory of Hawai'i had been paroled for one year or more, while 62 others had been on parole for less than one year as of that date.<sup>246</sup>

On the issue of the return of evacuees on the mainland, the termination of martial law in Hawai'i in October 1944 and the surrender agreement between the United States and Japan on September 2, 1945, emboldened the mainland authorities to push for greatly accelerated procedures. On September 11, the Provost Marshal General's Office (PMGO), unwilling to continue processing individual exclusion orders, proposed that Richardson should issue a blanket order rescinding exclusion orders.<sup>247</sup> On the same day, the PMGO requested from the Immigration and Naturalization Service in the Department of Justice a list of the Hawaiian evacuees and internees scheduled for return, organized by priority of shipment.<sup>248</sup> Also in September, the Hawaii Command and the Provost Marshal General's Office gathered information on those Kibei

<sup>244</sup>OMG to Secretary of War McCloy, radiogram, 27 Aug. 1945, RG 494, entry 11, box 32, National Archives; Secretary of War McCloy to General Richardson, memorandum, 8 Sept. 1945, RG 494, entry 11, box 32, National Archives.

<sup>245</sup>Internees list, Aug. 29, 1945, RG 494, entry 11, box 32, National Archives.

<sup>246</sup>Parolees list, Aug. 31, 1945, RG 494, entry 11, box 32, National Archives.

<sup>247</sup>A.W. Tollefson, Provost Marshal General's Office, to General Richardson, memorandum, "Return to Hawaii of the Remaining Japanese on the Mainland Who Were Originally Evacuated from Hawaii," 11 Sept. 1945, RG 494, entry 11, box 32, National Archives.

<sup>248</sup>A.W. Tollefson, Provost Marshal General's Office, to United States Department of Justice Immigration and Naturalization Service, memorandum, 11 Sept. 1945, RG 494, entry 11, box 32, National Archives.

excluees who had renounced their U.S. citizenship and were seeking repatriation.<sup>249</sup>

As the drive to return the Hawaiian Nikkei to their homes in the territory accelerated on the mainland, the availability of transport emerged as the single most crucial issue. By October, the Hawaii Command and the Provost Marshal General's Office had divided the evacuees and excluees eligible for return into four groups: Group 1 consisted of the 10 evacuees who had returned to the territory in July 1945; group 2 consisted of 106 internees and evacuees, while groups 3 and 3A jointly consisted of 387 internees and evacuees; finally, group 4 consisted of approximately 1,100 internees and evacuees.<sup>250</sup> As returnees were moved to the West Coast to wait for available transportation, there was more bureaucratic jousting, this time on finances: Richardson insisted that the Army Port and Service Command must assume responsibility for the housing, messing, and transportation of the former internees and evacuees. The closing of the WRA relocation camps further complicated the logistics of caring for the returnees awaiting transport to the territory.<sup>251</sup> At the same time, the demands for space on available transport of the mainly haole (Caucasian) "strandeers" who had left Hawai'i individually in early 1942 had further stalled the implementation of plans for the return of the Nikkei.<sup>252</sup>

Finally, on November 5, departure orders were issued for return groups 2, 3, and 3A on the U.S. Army transport *Yarmouth*, which left Seattle on November 7.<sup>253</sup> Group 4 was scheduled to ship from the Port of Los Angeles aboard

<sup>249</sup>General Richardson to Provost Marshal General's Office, radiogram, 14 Sept. 1945, RG 494, entry 11, box 32, National Archives. A total of 248 individuals from Hawai'i asked for repatriation. Allen, *Hawaii's War Years*, 141. A separate storm was brewing throughout the course of September 1945 over the continued internment in Honouliuli, Hawai'i, of three Kibei seeking to renounce their U.S. citizenship and repatriate to Japan. The legal authority for their continued detention after the termination of martial law was doubtful. The matter was resolved when the attorney general allowed them to renounce their American citizenship, and the three were eventually transferred to Tule Lake. Extensive correspondence on this episode is archived in RG 494, entry 11, box 32, National Archives.

<sup>250</sup>Message from Provost Marshal General's Office to General Richardson, 27 Oct. 1945, RG 494, entry 11, box 32, National Archives.

<sup>251</sup>Message from General Richardson to commanding general, Army Port and Service Command, 22 Oct. 1945, RG 494, entry 11, box 32, National Archives.

<sup>252</sup>See note 229, supra.

<sup>253</sup>Clearance order from Seattle POE to Fort Shafter, Nov. 5, 1945, RG 494, entry 11, box 32, National Archives. Soga, *Life Behind Barbed Wire*, 219.

the SS *Aconagua* on November 25.<sup>254</sup> A final issue arose in the request from the army's Hawaii Command at Fort Shafter that the mainland authorities consult with all non-residents intending to return to Hawai'i to ensure that all had located a "definite place to live" on return, since there was an acute shortage of housing and building materials in the territory.<sup>255</sup> The WRA confirmed that it had made such consultations on December 5, 1945.<sup>256</sup> However, it was not until mid-April 1946 that the last of the internees and evacuees left for home.<sup>257</sup>

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### WAR'S AFTERMATH: THE RENUNCIANTS AND THE COURTS

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For some of the renunciants held at Tule Lake, however, the end of the war did not mean an end to their ordeal of incarceration. With Japan's surrender, the WRA was preparing to close the camp early in 1946. This plan was well known to the prisoners, and rumors circulated that families would be broken up with forced relocation in North America or deportation to Japan. Compounding the plight of many renunciants was the WRA's intransigent refusal in early 1945 to permit any further non-internee transfers to the Tule Lake facility,

<sup>254</sup>Clearance order from Los Angeles POE to Fort Shafter, Nov. 14, 1945, RG 494, entry 11, box 32, National Archives.

<sup>255</sup>Commanding general Middle Pacific to commanding general Los Angeles port of embarkation, memorandum, 28 Nov. 1945, RG 494, entry 11, box 32, National Archives.

<sup>256</sup>War Relocation Authority to Fort Shafter, memorandum, 5 Dec. 1945, RG 494, entry 11, box 32.

<sup>257</sup>WRA, *The Evacuated People*, 55. Close to 1,500 of the nearly 2,000 who were sent to internment camps or relocation centers returned to Hawai'i, bringing with them almost 100 new children and family members. Eighteen persons died, and 241 chose to remain on the mainland. Two hundred forty-eight Hawaiians chose repatriation to Japan. Allen, *Hawaii's War Years*, 141; WRA, *The Evacuated People*, 55.

even to enable families to reunite there despite the uncertainties of pending decisions about an internee's fate.<sup>258</sup>

When the war ended, several hundred of the 5,000 renunciants, citing duress, coercion, and confusion at the time they formally renounced, were already in the process of petitioning the government for permission to revoke their renunciations. The Department of Justice (DOJ) flatly rejected their appeals, asserting that once a renunciation was filed, no reversal was possible; it was even contended that once having renounced, being no longer a dual citizen, a renunciant was a citizen only of Japan, hence an enemy alien (a bizarre legal stance that the DOJ adopted on grounds the surrender itself did not mark an official end to the war).<sup>259</sup>

As events proved, the DOJ would adhere to its hard-line stand on the irrevocability of renunciations throughout a long, complex period of litigation over the status of the Tule Lake prisoners.<sup>260</sup> The opening shot of the litigation was sounded in federal district court in San Francisco in November 1945, in a plea for an injunction filed exactly two days before the ships carrying hundreds of renunciants were scheduled to leave for Japan. Civil liberties attorney Wayne Collins represented 987

<sup>258</sup>D.S. Myer (director, WRA) to Ray West (project director, Tule Lake Center), 22 March 1945, and copies enclosed with it of letters from Myer directly to Tule Lake prisoners informing them their wives could not be given permission to join them as "it is contrary to the policy of the WRA to admit persons to the Tule Lake Center who are not already in centers. Hence your request must be denied at this time," RG 210, box 280, National Archives. The authors of this article have seen in government and personal papers, as well as in the Hawaii Command/OMG records, scores of poignant letters from spouses and other family members separated in this way, and in several cases letters from sons who were serving in combat with the 442<sup>nd</sup> or with the army in the Pacific theater, pleading that their parents be reunited when the father was incarcerated and the mother was left behind in Hawai'i.

<sup>259</sup>The following account of the renunciants' status and the litigation that followed is based on analysis provided by Collins, *Native American Aliens*, passim, and John Christgau, "Collins versus the World: The Fight to Restore Citizenship to Japanese American Renunciants of World War II," *Pacific Historical Review* 54 (1985): 1-31. A perceptive contemporary analysis (published in 1954, when the last stage of the litigation was still in progress), still very useful, is in tenBroek et al., *Prejudice, War, and the Constitution*, 175-84. See also Patrick O. Gudridge, "The Constitution Glimpsed from Tule Lake," *Law and Contemporary Problems* 68 (2005): 81-118, a study that also gives attention to the UC Berkeley project (the JERS) and its critics.

<sup>260</sup>The government was unyieldingly determined, it became clear, to deport all the internees and other prisoners they could, to stay a step ahead of legal proceedings that would impede the program, and to accomplish deportations speedily. The posture taken by the Department of Justice, in defending against renunciants' legal claims as they did, over so long a time, provoked charges from some defenders of the Nikkei and from civil liberties groups that it amounted to a campaign to get rid of Japanese residents in the largest numbers possible.

citizen or dual-citizen plaintiffs in this suit, but he also filed a petition for habeas corpus on behalf of another group being held at Tule Lake pending their deportation as well.

Accepting jurisdiction, District Court Judge Louis Goodman ordered the deportations stopped, and he called on the government to submit evidence pertaining to individual plaintiffs' loyalty or disloyalty. The DOJ responded by announcing that it would hold a "mitigation hearing" for each individual internee, to review its decision that American citizenship should not be restored. Even at this late stage in their ordeal of removal and imprisonment, the Kibei found themselves uniquely at risk, for in the mitigation hearings, the government examiners apparently treated the mere fact that a renunciant was a Kibei as sufficient evidence of disloyalty, and thus sufficient reason to deny the petition for restoration of citizenship.<sup>261</sup> Judge Goodman rejected this contention and other evidence that the government lawyers presented to deny the great majority of the litigants their claims; and he ordered that citizenship should be restored. There was no constitutional authority, he wrote, "to detain and imprison American Nisei citizens . . . when they were not charged with criminality." Also found in his final order in April 1949—three-and-a-half years after the end of World War II—was that the state of mind of prisoners at the time they renounced was necessarily affected, as he wrote, by the "fear, anxiety, resentment, uncertainty," and sense of "hopelessness" to which they had been reduced by oppressive physical conditions, pervasive violence, and the government's confusing administrative policies at Tule Lake.<sup>262</sup>

The government immediately filed an appeal in the Ninth Circuit for reversal of the order. So once again the status of the renunciants' citizenship was in question, deportation was still

<sup>261</sup>The other reasons that would warrant denial of petition were that the person had chosen to enter the Tule Lake Center voluntarily in order to reunite with family there; or that the person had been assigned to the center as a prisoner "because of a negative answer to question 28, or because of a denial by the WRA of leave clearance." See tenBroek et al., *Prejudice, War, and the Constitution*, 182. In their petitions to the federal courts for redress, the renunciants presented affidavits asserting that they had been given no time to prepare for the interviews, were afforded no opportunity to summon witnesses or obtain depositions in their favor, were denied the right to engage legal counsel of their choice or to see the secret dossiers on them held by their interrogators, and, withal, had been subjected to a procedure "neither full, complete nor adequate and . . . neither fair nor impartial" (quoted from template prepared by attorney Collins and incorporated in petitions to U.S. Attorney General Thomas Clark, dated Tule Lake, February 1946, in the Wayne Collins Papers, Bancroft Library, University of California, Berkeley).

<sup>262</sup>Final order, Judgment and Decree, April 12, 1949, quoted in Christgau, "Collins versus the World," 27.

threatened, and their lives were cast in a fog of uncertainty. The proceedings in the appeal were joined by other prisoners, almost all from Tule Lake, whose names had been added to the suit since the first filing in district court; now 4,315 renunciants were parties to the suit. Not until January 17, 1951, did the decision come down.<sup>263</sup> Judge Denman wrote the opinion, accepting the factual conclusions of the district court that the voluntariness of individual renunciations was questionable in light of conditions at Tule Lake. Rather than restore citizenship outright, however, the court held only that there was a "rebuttable presumption" that individual renunciants had been coerced or otherwise had involuntarily renounced. The door to resuming a free life in their homeland was thus opened for the renunciants. It was a victory, but a qualified one—for now thousands of individual affidavits would need to be filed in the district court by individual renunciants, with the government given the opportunity to review and offer its own judgment on each case for the court's consideration. If approval followed with an individual submission, citizenship would be restored in that case.<sup>264</sup>

It was a great disappointment to the renunciants that the Ninth Circuit had not swept the slate clean and restored their citizenship outright, as Judge Goodman had said was their constitutional right. The disappointment was especially keen since Judge Denman, in a case decided in 1949, *Acheson v. Murakami*, had written for the Ninth Circuit court in a decision upholding judgment in favor of three citizens (wives of Issei) who had renounced at Tule Lake. In that case, the court had restored their citizenship forthwith. Moreover, in his opinion in *Murakami*, Denman expressed, in harsh denunciatory language, a detailed and clearly outraged judgment on every aspect of the government's policies for relocation and internment. He deplored "General DeWitt's doctrine of enemy racism" and his record of "inflam[ing] the existing anti-Japanese sentiment," and, more outrageous still, DeWitt's expression of certainty "that a race of such enemy blood strain must commit sabotage." The same mentality was responsible for the officialdom's crediting of rumors about sabotage by Nikkei in Hawai'i in connection with the Pearl Harbor raid: "The Army

<sup>263</sup> *McGrath v. Abo et al.*, *McGrath v. Furuya et al.*, 186 F.2d 766, 773.

<sup>264</sup> The decision did grant immediate and full relief, with restoration of citizenship, to 899 Nisei who had been under the age of 21 when they had renounced, for 8 persons declared mentally incompetent, and for 58 renunciants whose appeals for restoration had been denied by the DOJ solely on grounds that "they went to Tule Lake to be with family members." See Collins, *Native American Aliens*, 137-38.



In his opinion in *Murakami*, Chief Judge William Denman presented a detailed, outraged judgment regarding the government's policies for relocation and internment, directly referring to racism and the practice of inflaming anti-Japanese sentiment. (Courtesy of Ninth Judicial Circuit Historical Society Archives)

high command knew all these stories were false." Quoting from seventeen interviews of Tule Lake prisoners published in *The Spoilage*,<sup>265</sup> Denman postulated that a setting and a regime that would not have been tolerated in a federal penitentiary, together with knowledge of rampant anti-Japanese racism in the country, necessarily affected "the minds of our fellow citizens as to the value of their citizenship." Denman's opinion also referred in detail to the armed turrets on corners of the stockade, the cramped dormitory-style quarters that packed multiple families into crowded spaces with no hope of privacy, the lack of protection against dust storms and winter cold, and the terrifying effects of violence by the pro-Japanese groups and the gangs, all affecting prisoners' state of mind. Comparisons with the Nazi regime and race hatred were also interspersed in the opinion. In sum, the court in *Murakami* was unremitting in criticism of the army and the WRA and broadly sympathetic to the plight of the renunciants.

But that was in 1949. The evidence that Judge Denman and his court found sufficient then to restore citizenship to the three women was found insufficient to warrant immediate relief for the more than 4,000 litigants in the 1951 *Abo* appeal. In such a large group, the court decided, given the district court record, it was logical to expect that there were in fact some disloyal persons who should not be allowed to regain citizenship, for the "state of mind" rationale would not apply to them. (The court expressed similar skepticism as to the subgroup who renounced only after the bombings of Hiroshima and Nagasaki had made it evident that Japan would lose the war.) The Cold War's effect on the judicial mind in the Ninth Circuit was now at work as well. Thus Denman wrote that against the Cold War background, "with the hot war in Korea, the federal courts should be more vigilant than ever [about disloyalty]. . . ," making it important to identify "enemy minded renunciants." Of particular interest to our present concerns, however, is that he went on to focus on the loyalty of the Kibei. His opinion cited the fact that more than half the native-born citizens at Tule Lake were Kibei, and that the record in district court in *Murakami* had established that at least some Kibei were "permanently pro Japanese." These "enemy minded" people had to be identified and denied their goal of regaining citizenship. And this is what the court decided, in its posture of "judicial vigilance," necessitated the

<sup>265</sup>*The Spoilage* and *The Salvage* were companion volumes, both the products of the UC Berkeley JERS project.

submission of the several thousand affidavits and the subsequent individual determinations.<sup>266</sup>

With reference to the fate of the Kibei from Hawai'i held in Tule Lake at the war's end, our computation, from data in Wayne Collins' records, indicates that a minimum of 55 renunciants from Hawai'i submitted affidavits to the district court after the 1951 Ninth Circuit decision in *Abo*. What the total number of plaintiff renunciants from Hawai'i may have been, what proportion of the 55 we have identified were Kibei, and other interesting questions about the Hawai'i prisoners remain unresolved. What is certain is that these 55 identified plaintiffs constituted, at minimum, one in eleven of all the Hawai'i prisoners held at Tule Lake; it is uncertain whether a much larger proportion had chosen repatriation and so were not involved in the *Abo* litigation.<sup>267</sup>

After further negotiations between Collins and DOJ officers, including Assistant Attorney General Warren E. Burger, arrangements were agreed upon for expediting the process for review of affidavits by the government. Collins worked with a majority of the named plaintiffs to frame their statements and oversee processing. Of the 5,589 applications from renunciants, citizenship was restored to 4,978 (including 1,327 of the Nikkei who had already been sent back to Japan in 1945 and 1946, some 347 of the latter group having been denied restoration of their citizenship). The *Abo* case went on for fully twenty-three years (Collins "battled eight different attorneys general" over that time, as one scholar observes); the final district court action, a "Withdrawal and Dismissal," in the one remaining renunciant's case did not occur until November 13, 1968.<sup>268</sup>

One can easily imagine the joy of the family when a Hawai'i renunciant won restoration, before or after returning home to the islands; the numbers of such returnees, however, are unknown. There had been emotional public ceremonies and reunions of loved ones in Honolulu in 1945, when the *Yarmouth* had brought into port the mass return of hundreds of Hawai'i's imprisoned Nikkei. The renunciants who came back from Tule Lake were the last remnant of that coerced exodus.

<sup>266</sup>186 F.2d 766, 772.

<sup>267</sup>Wayne Collins Papers, Bancroft Library, University of California, Berkeley, contains the full records of Collins' filings and pleadings, his correspondence with the litigants and the organization that was formed to support their efforts, and billing records.

<sup>268</sup>Christgau, "Collins versus the World," 30-31. An especially ironic aspect of this final day in court was that the named government defendant was Attorney General Ramsey Clark, whose father, Thomas Clark, was the named defendant in the initial filing of the suit in the U.S. district court in 1946. *Ibid.*, 31.

**STATISTICAL SUMMARY**  
**(All figures refer to Hawai'i population)**

Population of Hawai'i, 1940	423,330
Nikkei population of Hawai'i, 1940	157,905
Aliens (Issei)	37,353
U.S. citizens of Japanese ancestry (Nisei & Sansei)	120,552
Kibei (est.)	5,000 <sup>a</sup>
Nisei over age 16 (est.)	70,550 <sup>b</sup>
Nisei & Sansei under 16 (est.)	50,000 <sup>b</sup>
Nikkei population investigated by FBI or milit. intel. (est.)	10,000 <sup>c</sup>
Nikkei pop. arrested & interned, December 7-9, 1941	367 <sup>d</sup>
Issei	345
Nisei	22
Nikkei pop. sent to mainland intern. & WRA camps, 1941-45	1,874 <sup>e</sup>
Issei (est.)	712
Nisei (including Kibei) (est.)	1,162
Kibei (est.)	324 <sup>f</sup>
Nikkei population at Tule Lake	628 <sup>g</sup>
Nikkei population expatriated to Japan	248 <sup>h</sup>

<sup>a</sup>See note 28.

<sup>b</sup>See note 6.

<sup>c</sup>See note 5.

<sup>d</sup>See note 57. In addition to the Nikkei, 74 German nationals and 19 citizens of German ancestry, and 11 Italian nationals and 2 citizens of Italian ancestry were arrested.

<sup>e</sup>See notes 242 and 275. Includes 306 U.S. citizens who were paroled from internment in Hawai'i and assigned to relocation centers on the mainland; 783 alien and citizen "voluntary evacuees"; and 73 U.S. citizen excludées. Statistics from military and other government sources are not consistent.

<sup>f</sup>See note 124.

<sup>g</sup>See note 242.

<sup>h</sup>See note 285.

Their return was a series of individual events—important to their families, to be sure, but largely private. The music of the celebrations had faded; the history of the evacuations, exclusions, and internments came to a poignantly quiet ending; and for these families, too, the war was ended at last.

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## SUMMARY AND CONCLUSION

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Both the mass imprisonment of the Nikkei population on the mainland and the selective imprisonment of individual Hawaiian Nikkei—including the Kibei, most of whom held dual citizenship—evoke the basic challenge of our constitutional law, as recently expressed by retired Supreme Court Justice Souter, that

the Constitution embodies the desire of the American people, like most people, to have things both ways. We want order and security, and we want liberty. And we want not only liberty but equality as well. These paired desires of ours can clash, and when they do a court is forced to choose between them, between one constitutional good and another one. The court has to decide which of our approved desires has the better claim, right here, right now. . . .<sup>269</sup>

With regard to the mass evacuation from the West Coast states, in an infamous moment for the rule of law in America, the Supreme Court of the United States decided that Japanese-American citizens' claims of liberty and the application of traditional constitutional guarantees must be rejected. The crisis situation of a war suddenly thrust on the nation, and the convictions held by the military—and the president—as to the dangers of possible espionage and sabotage allegedly posed by the Nikkei presence in the western mainland states persuaded the Court to uphold the emergency measures as being within the terms of the Constitution.<sup>270</sup>

<sup>269</sup>Hon. David H. Souter, Harvard Commencement Address, in *Harvard Gazette*, May 27, 2010, <http://news.harvard.edu/gazette/story/2010/05/text-of-justice-david-souters-speech/>.

<sup>270</sup>For an insightful discussion of these oft-analyzed decisions, see Joel Grossman, "The Japanese-American Cases and the Vagaries of Constitutional Adjudication in Wartime," *University of Hawai'i Law Review* 67 (1997). Wiecek, *Birth of the Modern Constitution*, places the history of these cases in a richly textured contextual analysis of the wartime stresses on constitutional norms and executive decision making.

Hawai'i's residents of Japanese descent were spared what President Roosevelt and the chiefs of staff initially wanted to impose on them—the same fate of mass removal and incarceration as their mainland counterparts suffered. Instead, as we have seen, some 10,000 of them were investigated, hundreds were interrogated, and, of the latter, approximately 2,000 were taken into custody for internment, evacuation, or exclusion.<sup>271</sup> To be sure, the remainder of Hawai'i's Nikkei, including the 37,000 born in Japan and so legally categorized as "enemy aliens," were permitted to continue with their lives in the islands. But they did so under a wide range of specially targeted prohibitions and restrictions under martial law.

The fate of the Kibei, however, was especially cruel. Viewed from the outset of the war with deep suspicion as to their loyalty and reliability, they were subject to special scrutiny and exceptional treatment at virtually every step of the investigatory, assessment, and imprisonment processes.<sup>272</sup> The majority of the several hundred Hawaiian Kibei who were incarcerated at either the mainland WRA facilities or the Honouliuli camp were confined until war's end, and in some cases for months afterward. In addition, family members often chose to join those confined on the mainland and thus shared their fate.<sup>273</sup> More than 600 Hawaiian Nisei and Kibei ended up in the notorious center at Tule Lake, where internees deemed disloyal and those who requested repatriation had been concentrated.<sup>274</sup>

One thing seems certain: the Kibei were disproportionately represented among the Hawaiians who were evacuated or excluded. According to an October 1945 memorandum prepared

<sup>271</sup>The subgroup termed *evacuees* included, as we have noted, a few hundred so-called voluntary evacuees; but two features of their treatment justify using the term *taken into custody*. First, many internees' family members who were transferred from their residences to the mainland in the "volunteer evacuee" category were actually given no choice. There is specific evidence, for example, of a group of internees' wives on Maui who were summarily ordered by the army, on a few days' notice, to report to an evacuation center and then were transferred to the mainland—selected because they were on the welfare rolls and, as such, were a burden to the OMG budget. (Rev. Yamada, "Struggling Within a Struggle," 31–32.) Second, even those who did actually volunteer because they were seeking to join the heads of their families then in mainland internment were transferred to a relocation center or internment camp; although they did not always link successfully with their kin, in any event they also clearly were "in custody."

<sup>272</sup>See text and notes, pp. 45 ff.

<sup>273</sup>See pp. 33–35, re women and children who were evacuated.

<sup>274</sup>"Segregant Population of Tule Lake as of July 1944," WDC-CAD-Research Branch, September 4, 1944, reel 170, copy in JERS files, Bancroft Library, UC Berkeley.

by the Provost Marshal General's Office, a total 1,874 persons had been evacuated from Hawai'i to the mainland during the war. Of this total,

- 712 aliens (plus a few Kibei who wanted to renounce U.S. citizenship) were sent to internment camps on the mainland under the terms of the Enemy Aliens Act;
- 306 formerly interned or detained U.S. citizens—presumably mainly Kibei—were paroled from internment in Hawaii and assigned to relocation centers on the mainland between November 1942 and March 1943;
- 783 civilians, both citizens and aliens, including men, women, and children who presumably were family members of internees or former internees and were designated "voluntary evacuees," were evacuated, most of them with the previous group; and
- 73 U.S. citizens, again presumably mainly Kibei, were excluded from the Territory of Hawaii Military Area after martial law ended in 1944.<sup>275</sup>

General Richardson attested that the persons who had been selected for evacuation (other than the women and children) were, "for the most part dual citizens who were considered at that time to be potentially dangerous to the military security of the Territory of Hawaii, but not to the United States as a whole."<sup>276</sup> Although we cannot say with certainty how many of the 306 former internees and 73 excludées were Kibei, according to our analysis of the WRA records, there were 324 Kibei in the relocation centers. Allowing for the fact that a few female Kibei accompanied their husbands, we can conclude that the vast majority—perhaps as many as 80 percent—of those 379 American and dual citizens whom Richardson deemed potentially dangerous to the security of the islands were Kibei.<sup>277</sup> And yet, the Kibei comprised, by even the highest estimates, somewhat less than 5 percent of the adult Nisei citizen population in Hawai'i.<sup>278</sup>

Undoubtedly some of the Kibei who were deprived of their liberty were either in favor of a Japanese victory or were neu-

<sup>275</sup>A.M. Tollefson, Provost Marshal General's Office, "Persons Evacuated from the Territory of Hawaii Military Area Presently Residing on the Mainland," Oct. 9, 1945. See note 242, *supra*, re discrepancy of statistics.

<sup>276</sup>See Richardson to CIC, Pacific Oceans Area, memorandum, 23 March 1945, RG 210, entry 17, box 3, National Archives.

<sup>277</sup>In addition, we know there were three Kibei still being held in Honolulu toward the end of the war.

<sup>278</sup>See *supra*, note 27.

tral or ambivalent about who won the war. Certainly a significant number of them asked for repatriation to Japan—at least after they had been subjected to incarceration in the internment camps and/or relocation centers. That does not necessarily mean, however, that they were a threat to security or would engage in espionage or sabotage. But for the pro-Japanese Kibei and Nisei as well as for those who were staunchly loyal to the United States, the processes by which these people were taken from their homes and incarcerated, with many families given no way to reunite, were strikingly deficient as measured by the established norms and imperatives of constitutional due process.

*“Processing,” Not Due Process:  
The Dynamic of Nontransparent Procedure*

It was often said in professional intelligence circles that determining the “loyalty” of a suspect was the most important thing to be achieved in an investigation or interview, but it was also the most difficult thing to accomplish with accuracy. That is why the FBI as well as the army and navy intelligence officers adopted the categories *potentially disloyal*, to justify some of the internments, and *passive loyalty* as a category that would bring a person under the shadow of suspicion and even warrant taking the suspect into custody for internment or removal, absent behavior termed *active loyalty*. That these categories were elastic, subjective, and could be convoluted and perverse in their application to individual cases surely was inevitable. According to an attorney for the WRA who was present at the loyalty interviews at Tule Lake in March 1943,

I heard every kind of approach and noted wide variations in the treatment by different interviewers of the same conduct and the same responses by different kibei. For instance, when Kibei A would say “I am confused. I do not know whether to register or not,”—interviewer X would reply “All right. You go back home and think it over. Come back tomorrow morning and see me.” At another table Kibei B would say substantially the same thing as Kibei A had said, and interviewer Y would answer . . . “Get on the truck. . . . You can get 20 years for what you’re doing.”<sup>279</sup>

<sup>279</sup>Edgar Bernhard, principal attorney, to Philip M. Glick, War Relocation Authority, 13 April 1943. JERS Collection, reel 170, Bancroft Library, University of California, Berkeley.

The underlying premise of the entire intelligence operation that led to the loss of liberty for the nearly 2,000 Nikkei in Hawai'i (as it did for all the mainland Nikkei internees) was that to be of Japanese descent was to be suspect. This was profiling in raw and unvarnished form. In the case of Hawai'i, that premise was vastly less devastating in its effects than it was as applied by the army on the mainland, for in Hawai'i it was the basis for "selective" investigation rather than mass removal or internment. The military intelligence and FBI operations in the islands were geared to the investigation of individual suspects' personal behaviors (presumed to reveal cultural proclivities and hence primary loyalties) in light of educational background, religious beliefs and practices, business or organizational associations, and other factors regarded as relevant to assessing loyalty. To that degree, the determination of loyalty rested at least superficially on an evaluation of a range of relevant facts and factors, rather than beginning and ending with the single criterion of race.<sup>280</sup>

Many particulars of the substantive criteria that were formulated to separate the "loyal" from the "disloyal" appear in retrospect, however, to have been insupportable. For example, questions were posed to suspects for which almost any answer would be evidence of disloyalty or "potential disloyalty." Assumptions that anyone of Japanese descent would be ready to lie, would be at best evasive, was untrustworthy, and the like, clearly prejudiced the decisions that led to many incarcerations. Worst of all, with regard to the general investigative and decision-making procedures, decisions often turned on evidence of questionable relevance to whether a suspect was actually a security risk, such as membership in specified organizations, cultural lifestyle, religious affiliation, style of dress, possession of religious materials, use of the English language, relatives living in Japan, contributions to suspect organizations (the contributions in some cases literally less than a dollar), and the like. Yet it was on the basis of facts such as these that persons were taken away from their families and their homes, faced, as many of them understandably believed, with the possibility of never seeing loved ones again.

<sup>280</sup>See, e.g., text *supra*, pp. 41–46. Eric Muller provides an informative discussion of the theoretical and practical perplexities associated with loyalty assessment. Minimal fairness, he states, requires "a welter of information about an individual's past conduct, environment, and psychology. Hinging a prediction of a person's future risk of dangerous or illegal behavior on one or two rudimentary facts about him is unthinkable. And when those facts are a person's ancestry and cultural practices and ties, the prediction is uniquely dangerous. . . . Focus on a person's ancestry and cultural practices is far more likely to corrupt an inquiry into his loyalty and dangerousness than to enhance it. . . ." Muller, *American Inquisition*, pp. 143–44.

General Emmons admitted as much when being deposed under oath for a postwar civil liability trial: "In Hawaii, we were taking no chances," he said, "and we used the expression 'potentially dangerous' in a very liberal way, . . . a very broad way. . . . In the case of any doubt of any kind, we had the man interned. . . ." <sup>281</sup> For many who were interned, Emmons readily conceded, there was no evidence that the person interned would likely do any harm. In making his decisions, Emmons admitted, it did not matter whether the person in question was an American citizen or not, and he did not hesitate to approve arrest, internment, or evacuation of individuals even in the absence of any "real evidence that they were dangerous." He stated further, "We had information in the form of gossip, hearsay and conclusions, and so on, that I would distinguish from evidence. What I mean is that had we presented in court what we had, and what the FBI had, on these people, the court would not [have] accepted it. . . . At least, I never saw any [such tangible evidence]. . . . Had we had such evidence, we would have tried them before a military commission." <sup>282</sup>

The adjudication procedure thus was explicitly based on crediting even undocumented gossip or suspicion. The process of loyalty determination was nontransparent; it gave unlimited discretion to the military commander, who was free to accept or reject the decisions of formal review boards (and he regularly accepted the advice of intelligence officers when they recommended that he override review boards' findings that a particular individual was loyal and should be released.) <sup>283</sup> If specific documentation of behavior allegedly warranting internment was available to the army, it was not revealed to the person under investigation or interrogation, and permission was never granted to confront accusers. The case files for those sentenced to internment or removal typically would be closed with the

<sup>281</sup>Deposition of Gen. Delos Emmons, taken at San Francisco, May 18, 1949, in *Zimmerman v. Poindexter et al.*, box 157, Case Files for the U.S. District Court for the District and Territory of Hawaii, National Archives (Pacific Region), San Bruno, California.

<sup>282</sup>*Ibid.*

<sup>283</sup>In the 1943–44 board review of earlier decisions on individual internees, we have found in our examination of summaries of action as well as of individual files that about one-fourth, at least, of the favorable initial recommendations had been overridden by the military and intelligence officers who made final recommendations to the commanding general to continue incarceration. Emmons deposition in *Zimmerman v. Poindexter et al.*, cited in n. 281, *supra*.

prescribed stock phrase "dangerous or potentially dangerous to the security of the United States."<sup>284</sup>

By this process were hundreds of U.S. citizens deemed "disloyal" or "potentially disloyal," and therefore subjected to incarceration; for some, including hundreds of the interned Kibei from Hawai'i, the final result was exposure to the terrifying chaos and coercion that prevailed at the Tule Lake camp. Entrapment in the processes of investigation, interrogation, transfer, and incarceration was compounded at Tule Lake by confusion, duress, and violence—with the result that several thousand internees and their kin from the mainland, plus a reported 136 from Hawai'i, signed papers renouncing their U.S. citizenship and asking for return to Japan.<sup>285</sup> Even with regard to the foregoing opaque and nonaccountable procedures that the internees and other evacuees endured, the Kibei were once again placed in an especially disadvantaged position at every step in the process, victimized by the crudest variant of racial profiling. When a Kibei was interrogated, the chances of being found disloyal, or at least of being found "potentially dangerous" or worse, were far greater than for other Nisei or indeed (at least after the initial roundup in December 1942) than even for alien enemies who were taken into custody and interned.<sup>286</sup> To be a Kibei was to be subject to a very strong (and explicit) presumption of some degree of disloyalty and/or unreliability.

This presumption of Kibei disloyalty had been expressed since 1940 or earlier in the key policy documents on which the intelligence services relied heavily for guidance: the Ringle Report and the Munson Report, both of which contended that the Kibei were primarily loyal to Japan—and the "most dan-

<sup>284</sup>These factual statements and others that we have given with regard to the procedures and decisions on loyalty are based, unless otherwise specifically noted, on our examination of scores of individual files in the intelligence and army records held in the National Archives and the Bancroft Library, UC Berkeley, and material in the Japanese Cultural Center of Hawai'i collections. Full analysis of these cases will be included in a book, tentatively titled "Bayonets in Paradise," which is currently in process of research and writing by Harry and Jane Scheiber.

<sup>285</sup>War Relocation Authority, *The Evacuated People*, 192. Of the 136 requesting transfer to Japan who were in the WRA camps, 125 were evacuees, 10 were excludées, and 1 had been released and was on parole. Allen gives the total number of those from Hawai'i who requested repatriation to Japan as 248. Allen, *Hawaii's War Years*, 141. Presumably, this larger number includes those who were in Department of Justice camps as well as others who were never in custody, including family members of those who elected to return to Japan.

<sup>286</sup>Nearly 50 percent of Hawai'i citizens who had hearings were interned, compared to 7 percent of aliens. Exhibit 10, *Zimmerman v. Poindexter et al.*, box 155, case files, civil case 730, for the U.S. District Court for the District and Territory of Hawaii, National Archives (Pacific Region), San Bruno, California.

gerous element" of the Nikkei—and recommended that their internment be given high priority in any security program; it was also expressed in the two naval intelligence manuals issued in Hawai'i in 1943, discussed above, and in briefings given to investigators.<sup>287</sup> Indeed, that presumption was embellished in several key documents (widely circulated in the intelligence bureaucracy) expressing the view that the Japanese government had purposefully sent many Kibei back to Hawai'i or the mainland to engage in espionage or sabotage, or with some other unspecified but sinister "mission" on behalf of the Japanese military. Ringle's assessment, it will be recalled, specifically proposed that many Kibei "*may have been deliberately sent back to the United States by the Japanese government to act as agents.*"<sup>288</sup>

This perdurable presumption of Kibei disloyalty lay behind the army's decision, in a mode of almost panicked urgency, to move the Kibei internees out of Hawai'i when Judge Metzger opened his court for a habeas hearing in 1943, and thus led General Richardson to fear that his entire regime of martial law would be jeopardized. This same presumption persisted at all stages of "processing" of the Hawai'i Kibei as they were moved to the mainland camps and subjected to the series of investigatory interviews conducted there during 1943 and 1944. Those deemed disloyal, or who refused to answer the loyalty questionnaires, were segregated with the mainland Nikkei at the Tule Lake Center. Various intelligence guidelines for hearing officers' determination of loyalty stated that "bitterness" or "lack of remorse" (like "evasiveness") might be considered sufficient reason to deny the suspect person parole or release, or to send the prisoner into internment at Tule Lake.<sup>289</sup>

### *"In Case of Invasion": The Perpetual Emergency*

It remains to ponder why the army, with the full support of the Roosevelt administration, held so rigidly to the theory that internment or removal of so many Kibei and other Nikkei was essential to the security of the islands and the protection of the war effort in the Pacific—despite the absence of sabotage or espionage. The answer lies mainly, we submit, in

<sup>287</sup>The Ringle Report is quoted in the text, *supra*, at note 59; the Munson Report is discussed in text and quoted at note 42; the 1943 memoranda by naval intelligence in Hawai'i are discussed on pp. 41 ff.

<sup>288</sup>See text at note 59. Emphasis added.

<sup>289</sup>See also note 181. See Donald E. Collins, *Native American Aliens*, 102.

the way in which the intelligence services and the military leadership framed the criteria for incarceration and evacuation of the "dangerous" and the "potentially dangerous" persons who were taken into custody.<sup>290</sup> Building on the premise, discussed above, that Japanese ancestry (let alone status as a Kibei) was sufficient to warrant suspicion of disloyalty, the interrogators, FBI investigators, review boards, and military brass made operational in a specific way General Emmons' maxim that "doubt of any kind" could not be accepted. No chances could be taken. But chances taken in what sense? Here the relevant criterion was explicit, appearing repeatedly in the internal correspondence now available in the archival records, as it also appeared formally in the intelligence manuals and guidelines for interrogators and review boards. This criterion was, in effect, the likelihood that a given suspect would lend active assistance to Japanese combat forces in the worst-case scenario—in which the Japanese would launch an invasion of Hawai'i, landing on the beaches of the islands while a renewed air attack would be directed at military and naval installations.

Thus, in a basic sense, the fairness of the criterion being applied to an individual depended on the plausibility of the worst-case scenario. When a federal commission held secret hearings in Hawai'i under the chairmanship of Justice Roberts four weeks after the Pearl Harbor attack, this question arose in interrogating witnesses. Especially revealing was the testimony of Robert Shivers, the FBI agent in charge of Hawai'i, who told the commission that there had been absolutely no sabotage reported during the air raid. But when he was asked if he was confident that no acts of sabotage would be committed in the event of another raid, he replied, "Absolutely not." He regarded it as a distinct possibility. In light of his widely circulated public statements refuting rumors of Nikkei involvement in sabotage either on December 7 or after, this exchange and what followed in Shivers' testimony offers an important insight into the mentality and the particular concerns of responsible security officials at this critical juncture. Commissioner William Standley, a navy fleet admiral, asked, "Does that [the lack of sabotage after December 7] convey to you the possibility that that was deliberate so as not to alarm the people about sabotage so that when the real test comes that sabotage would be effective?" Shivers responded that undoubtedly there were some in Hawai'i "who would be lulled or want to be lulled into

<sup>290</sup>This is not to underestimate the importance of personalities. General Emmons' resistance to the pressures for mass evacuation have been noted.

that train of thought and who would probably try to lull other people into that train of thought."<sup>291</sup> Asked more specifically to predict how the Nisei and Issei population of the islands would act if an invasion should occur, Shivers predicted that in the event of any "temporary decisive victory" by Japan in the war, let alone if the islands were attacked again, "the old spirit will begin to bubble forth" so that the "subservience" evident in the Nikkei community would disappear. He concluded that "some of them will probably do anything they can," if in a position to assist an invasion force.<sup>292</sup>

A more forceful view of potential treachery was offered to the commission in the testimony of Angus Taylor, the U.S. attorney for the district of Hawai'i. Seasoning his presentation with some scornful remarks about Shivers' naiveté in publicly attesting to Japanese-American loyalty, Taylor declared, "On my information, I think that if there were an invasion or something of that sort they would go over to the other side."<sup>293</sup>

There is no doubt that General Emmons was concerned about such a possibility. Indeed he referred to it explicitly in an unexpected context, viz., to reinforce his argument that a mass evacuation, as desired by the president, the navy, and others in 1942, was unnecessary. Emmons stated in this connection that if he were given the level of troop reinforcements he was requesting, he was confident his command could suppress any uprising or sabotage that might occur during a further attack.<sup>294</sup>

After the damage inflicted on the Japanese fleet in the Battle of Midway in June 1942, the burden of expert opinion was that Hawai'i was no longer in danger of invasion. Even a year later, however, General Emmons and OMG lawyers were contend-

<sup>291</sup>Shivers testimony, January 6, 1942, in *Pearl Harbor: Commission to Investigate the Japanese Attack of December 7, 1941, on Hawaii* (offprint copy in Bancroft Library, UC Berkeley), 668.

<sup>292</sup>Ibid.

<sup>293</sup>Taylor testimony, *ibid.* 677. Other federal commissions have visited Hawai'i and seen "only the beauty," Taylor went on, embellishing his point with some rambling and almost incoherent ruminations. These commissions "make an investigation, and they are wined and dined and they see some hula-hula girls, and they go out and they see the Japanese children saluting our flag one time and do not see them thumbing it the next." (*Ibid.*) The top officers in the Department of Justice and many OMG officers, including Emmons, regarded Taylor as overly emotional on the question of Japanese American disloyalty, and his allegations of evidence to prove immediate danger were discounted when evaluated in Washington. See Scheiber and Scheiber, "Bayonets in Paradise," 493, 493n.

<sup>294</sup>Emmons to adjutant general, 10 Feb. 1942, in Daniels, ed., *American Concentration Camps*.

ing against any reduction in their authority in the martial law regime on grounds that Hawai'i remained susceptible to attack by Japanese forces, by air raids at a minimum. In sworn testimony in the *Duncan* case hearing in Judge Metzger's court in April 1944—at a time when the level of combat was being intensified in the western and southern Pacific (presumably rendering Japanese naval and air forces even less capable of launching a cross-Pacific attack on Hawai'i)—General Richardson actually declared under oath that Hawai'i was in imminent danger of attack.<sup>295</sup> (This was at a time when the War Department was preparing to downgrade the Hawaiian Islands to a "communications zone.")<sup>296</sup>

For the army command, the implication of these repeated warnings of danger from the Hawaiian Nikkei population in case of an invasion was clear: not only were internments necessary, but also martial law must be preserved to its fullest extent. Resisting every effort to return key elements of governance to the civilian officers and courts, Richardson made clear to the War Department the connection he wanted recognized between the ethnic Japanese "threat" and the need for martial law. "It must be remembered," he insisted in a June 1944 message to McCloy, that "apprehension, detention, hearing and internment continue even now," with 43 persons of Japanese ancestry (the majority Kibei) having been interned in the first five months of the year. Some of the U.S. citizens among the new internees "are considered far more potentially dangerous," he claimed, "than some aliens." Martial law was thus twinned with internment; together they had, "without doubt, exerted a continuing pressure upon the Japanese community and acted as a deterrent on the Japanese community."<sup>297</sup> Thus, even while admitting that they did not have solid enough evidence on their internees to withstand judicial scrutiny if there were a habeas corpus proceeding, the generals continued to hammer away at the idea that residents of Japanese extraction represented a serious threat to security, along with the idea that an invasion might occur that would unleash disloyal Japanese subversives or saboteurs. And they continued to link the scope and sustained force of martial law

<sup>295</sup>Not only Richardson but also Admiral Chester Nimitz testified in the *Duncan* case hearing that "invasion," though possibly in the form of commando raids or air attacks, was still an imminent danger. Discussed in Justice Black's majority opinion in *Duncan v. Kahanamoku*, 327 U.S. 304, 329 (1946).

<sup>296</sup>Lt. Col. Harrison to Capt. Colclough, memorandum, 6 June 1944, McCloy Files, RG107, National Archives.

<sup>297</sup>Richardson to McCloy, 9 Aug. 1944, Asst. Sec. of War Files, RG 107, National Archives.

with internments or removal of Nikkei as the complementary tools that they needed to maintain adequate security in anticipation of such a worst-case scenario.

### *The Absence of Legal Challenge*

None of the Kibei, nor indeed any of Hawai'i's Nikkei citizens who were incarcerated or evacuated, ever had their day in court during the war years. Neither the Supreme Court justices who had heard the three Japanese American cases from the mainland nor even a federal judge in the district court in Hawai'i ever ruled on whether the army had violated the constitutional rights of these citizens by internment, evacuation, or exclusion. This absence of any judicial action was attributable partly to the army's series of stratagems which, as we have seen, moved the prisoners first to the mainland, then back to Hawai'i, then to the mainland again—precisely in order to make it difficult for them to get a habeas corpus proceeding before a federal court.

This very ironic failure of Hawaiian Kibei or other Nikkei to present a habeas petition during the war can be attributed, it seems fairly certain, to fear on the part of the prisoners themselves and their families that by challenging the military authorities, they would provoke the military to initiate in the islands some variant of the mass expulsion and internments that had occurred on the mainland.<sup>298</sup> A further possible explanation, suggested in an interview given to us by the late Senator Hiram Fong (who had been a young politician and lawyer in Hawai'i when the war broke out and martial law was first imposed), was that there was a Japanese cultural disposition not to challenge the government because of the risk of the shame that would attend an unsuccessful appeal to law. Whatever the reasons, the fact remains that no habeas challenge was raised by the Hawaiian Nikkei population from December 7, 1941, to the end of the war.

Yet one vital fact remains indisputable: There was never an iota of evidence to prove a single act of espionage, let alone sabotage, committed—either before or after Pearl Harbor—by

<sup>298</sup>This is a theme that runs through the confidential detailed Morale Section reports of 1942, filed with the OMG, copies in the Hawaii War Records collection, University of Hawai'i Library; and also in the Japanese American Evacuation Files, Bancroft Library.

Kibei or any other Nisei or Japanese alien in Hawai'i.<sup>299</sup> This fact was attested to repeatedly, both in internal agency documents and in public, by both military and civilian intelligence officers, and by the FBI. The army and the intelligence chiefs in Hawai'i contended throughout the war that the absence of such acts was attributable to the measures taken, in the larger martial law context, against the Nikkei community and targeted in a unique way against the Kibei. Was this the full explanation? Or was it instead an inversion of logic, denying the possibility that the Kibei and other Nikkei in fact posed little or no real danger of subversion, let alone espionage or sabotage? The Hawaii Command's intransigence and attachment to the proposition that martial law must be perpetuated in its fullest scope—even down to the last months of 1944—bore all the hallmarks of a military bureaucracy that had invested itself in a program of total control. In their unwillingness to part with any element of that program, the military in Hawai'i exhibited little concern with constitutional liberties and insisted that their own determination of what measures "military necessity" required must be the sole prerogative of commanders on the ground.

In sum, the military's unyielding resistance to any curbing of martial law powers became a dominating imperative of its policy in the last two years of the war; and the army's preoccupation with interning, evacuating, and "excluding" Nikkei served to buttress and advance the army's arguments for the larger objective of preserving martial law in their proclaimed "fortress" in the Pacific. In that sense, the record of their treatment of the Kibei of Hawai'i must be understood in the context of interrelated policies and actions impelled and advanced by racial stereotyping and discrimination, by resistance to the acknowledged constitutional procedures that were designed to protect citizens' rights even in wartime, by disregard and

<sup>299</sup>See note 52 regarding the activities of the Japanese consulate re "espionage." There was also the case of a downed Japanese pilot being helped by a single Nisei on the isolated island of Ni'ihau, but it is likely that such assistance was driven by ignorance and fear more than by loyalty to Japan. At the time the pilot crashed, the residents of Ni'ihau were unaware that the United States and Japan were at war. The pilot was killed by the islanders, and the Nisei killed himself. The Nisei's wife, suspected of being a Japanese spy, was held in a military prison on Oahu until late 1944. A January 1942 navy report cited the incident as indicative of the "likelihood that Japanese residents previously believed loyal to the United States may aid Japan" and probably influenced the administration's thinking on the need for internment of the Nikkei. William Hallstead, "The Ni'ihau Incident," *World War II* (November 2000), available at <http://www.historynet.com/the-niihau-incident-htm/2>. See also Allen, *Hawaii's War Years*, 44–46; Haama and Komeiji, *Okage Sama De*, 131–32; and the official U.S. Navy website, [http://www.navy.mil/search/display.asp?story\\_id=30209](http://www.navy.mil/search/display.asp?story_id=30209).

literally contempt for federal judicial authority in the islands, and, not least, by a military bureaucracy's ardent defense of the position of power it had established in the first intensive hours of the emergency that engulfed Hawai'i when Japanese planes attacked the U.S. fleet and airfields on the fateful morning of December 7.

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