

The Constitution in a Time of War:
The Trial of Minoru Yasui

A staged reading of the trial transcript

Narration written by
Judge Denny Chin

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Adapted by George Taylor and **Karen L. Fink**

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Original script by
the Asian American Bar Association of New York (AABANY)

for production in
in conjunction with Lake Oswego Reads 2009 - Stubborn Twig
Lake Oswego, Oregon, February 2009

Original production of this version of the script produced
by Oregon Minority Lawyers Association

Script version: 2/19/2009

The Constitution in a Time of War: The Trial of Minoru Yasui

Cast (as produced in Portland, Oregon, February 2009)

Narrator 1 (Rick Okamura)
Narrator 2 (Chanpone Sinlapasai)
Minoru Yasui, the defendant (John Kodachi)
A Secretary's Voice (Ashley Robbins)*
Sergeant William Maas (George Guyer)
A Policeman's Voice (John Geil)*
James Alger Fee, the presiding judge (Tom Kranovich)
Carl Donough, prosecution team (John Marandas)
Charles Burdell, prosecution team (George Taylor)
Earl Bernard, lawyer for the defense (Peggy Nagae)
Special Agent Vincent Quinn (Liani Reeves)
Special Agent Ray Mize (Simon Whang)
Special Agent Alan Davis (David Kong)
Leslie Scott (Ashley Robbins)
General DeWitt (George Guyer)
Court reporter (Kristen Asai)
Chief Justice Stone (Simon Whang)
Justice Black (Leslie Johnson)
Justice Murphy (Mary Simeone)
Justice Jackson (John Geil)

Personal Narratives (Vignettes)

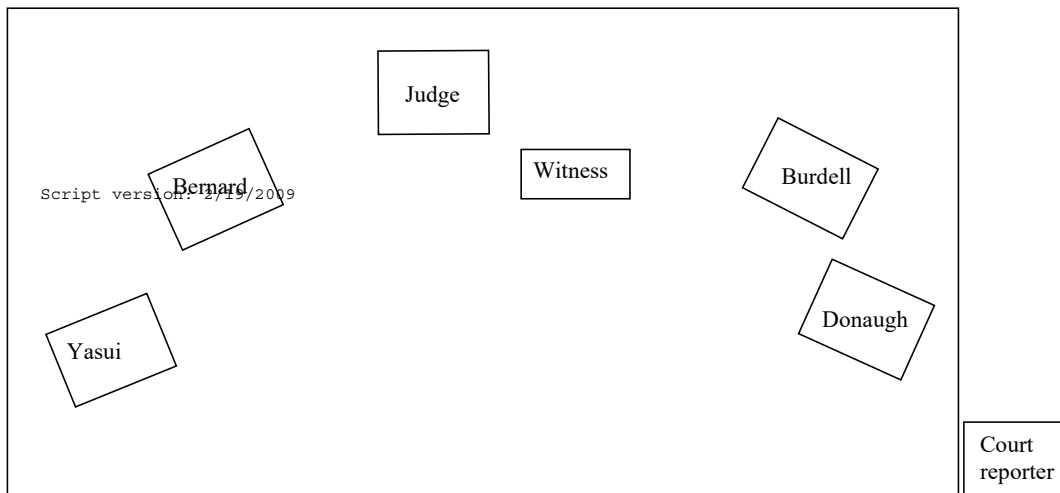
Henry Sakamoto (himself)
George Nakata (himself)
Hood River Apple Girl (Lindsay Mayer)

The Portland production incorporated personal recollections delivered by local residents who had been affected by the internment. The subjects were interviewed and their comments turned into short vignettes, which the participants used as a guide for their own words. Insertion points for the vignettes are noted in the script; the draft vignettes are provided at the end of the script.

Time: February 1942

Place: A Federal Courtroom, Portland, Oregon

Playbills for future productions of this version of the script must credit: Original narration written by the Honorable Denny Chin (primary font), adapted and staged by George Taylor and Karen Fink (secondary font). First produced in this version by Oregon Minority Lawyers Association and the Oregon Commission on Asian Affairs as part of Lake Oswego Reads 2009 - Stubborn Twig. Powerpoint presentation courtesy of Asian American Bar Association of New York and filmmaker Steven Okasaki.



Stage schematic for *The Constitution in a Time of War: The Trial of Minoru Yasui*, as performed in Portland, Oregon, February 2009.

The stage measured 8 by 16 feet. At upstage center, a stool and music stand represent the judge's bench; slightly downstage and to one side, a music stand and stool are the witness box; at either side, stools or chairs represent the prosecution and defense tables. Use of music stands is minimized to improve the audience's view. When not on stage, actors occupy chairs at either side of the courtroom, in view of the audience. Witnesses enter the witness box from upstage left, behind Burdell. Due to the small stage, the Court Reporter is just off downstage left. Narrators serve as tour guides to the trial, moving among the audience and using book lights to illuminate their scripts. At either side of the stage are drop-down screens that display slides during the performance. This Power Point presentation is divided into 6 "scenes," as marked in the script.

Costuming:

In the Portland production, courtroom attire was the standard. Hats were used to suggest the era: most of the men wore fedoras in the opening scene; women wore ladies' hats from the 1940s throughout (even when a female actor played a man; we used gender-blind casting). The cop in the opening scene wore a cop hat; DeWitt wore an army officer's hat. Judge Fee and the Supremes wore judge's robes, no hats.

The Constitution in a Time of War: The Trial of Minoru Yasui

Scene 1: A Day of Infamy (film clip, if desired/available).

Scene 2: Before the Trial

(All actors on stage, standing close together to suggest confinement.)

NARRATOR 1

On February 19, 1942, seventy-four days after the bombing of Pearl Harbor, President Roosevelt signed Executive Order 9066, authorizing the Secretary of War to designate military zones from which "any and all persons" could be excluded.

NARRATOR 2

Eventually, some 120,000 persons of Japanese ancestry -- two-thirds of them American citizens -- were removed from their homes on the West Coast, without any due process or individualized consideration, and placed in internment camps.

ACTOR PLAYING QUINN

The relocation process began with orders imposing a nighttime curfew on

ENTIRE CAST

"all persons of Japanese ancestry."

ACTOR PLAYING BLACK

On March 28, 1942, within hours after the curfew took effect, a young, Japanese-American lawyer...

MINORU YASUI

Minoru Yasui.

ACTOR PLAYING BLACK

...began walking the streets of Portland, Oregon. Intent on challenging the legality of the military orders, he walked for three hours, trying to get arrested. He even asked his secretary to call the police...

SECRETARY

There's a Japanese walking up and down the street -- go arrest him.

ACTOR PLAYING STONE

Police officers, however, told him...

SERGEANT MAAS AND POLICE OFFICER

(in unison) Run along home.

ACTOR PLAYING STONE

Undeterred, he finally went to a police station, where he demanded to be -- and was -- arrested. Yasui was the first person to challenge the military orders. He was indicted for violating the curfew and was prosecuted in federal court.

ACTOR PLAYING SCOTT

Two other Japanese-American citizens were prosecuted for violating military orders: Fred Korematsu and Gordon Hirabayashi. A Japanese-American woman, Mitsui Endo, filed a petition for a writ of habeas corpus to challenge her internment.

ACTOR PLAYING QUINN

All four cases reached the United States Supreme Court.

ACTOR PLAYING DAVIS

Yasui waived his right to a jury, and the case was tried to the Honorable James Alger Fee on June 12, 1942. Judge Fee asked eight of Portland's leading attorneys to attend the trial as "friends of the Court," to provide advice on the constitutional issues.

NARRATOR 2

Nine witnesses, including Yasui, testified.

ACTOR PLAYING JACKSON

The Government was represented by Carl Donagh, the United States Attorney for the District of Oregon. He was accompanied by Charles Burdell, a Special Assistant to the Attorney General from Washington, D.C.

ACTOR PLAYING MURPHY

Yasui was represented by Earl Bernard, a distinguished Portland lawyer. Bernard was not known for taking on liberal causes, but he was an acquaintance of Yasui and took an interest in the case. He would represent Yasui all the way to the Supreme Court.

ACTOR PLAYING MIZE

Today we will re-enact portions of the Yasui trial for you. Other than some editing for length and the addition of some commentary, the words you will hear are the actual words spoken at the trial, more than sixty-five years ago.

NARRATOR 1

Ladies and gentlemen, the Trial of Minoru Yasui.

(CAST moves quickly into position: Judge, attorneys, and Min to places in courtroom; narrators to position in audience; all others to wings. All remain standing except Judge.)

Scene 3: Opening Statements

(JUDGE LEE BANGS GAVEL.)

JUDGE FEE

United States of America, plaintiff, versus Minoru Yasui,
defendant.

EARL BERNARD

The defendant is ready for trial, your Honor.

CARL DONAUGH

The Government is ready, your Honor.

JUDGE FEE

You may proceed.

(All except narrators sit.)

NARRATOR 2

It was undisputed at trial that Yasui had knowingly violated the curfew. The principal issue was a legal one -- the constitutionality of the curfew order. Yasui was a U.S. citizen, and the curfew order applied to all persons of Japanese ancestry, including American citizens of Japanese descent. The curfew order did not, however, apply to any other American citizens.

NARRATOR 1

In its opening statement, the Government did not address the constitutionality of the curfew, but alluded to two other lines of attack: first, Yasui had forfeited his American citizenship by his actions on behalf of the Consul General of Japan.

NARRATOR 2

Second, the military orders were necessary because the racial characteristics of the Japanese predisposed them to sabotage and subversion.

(Carl Donough stands. Lawyers will
generally stand when speaking, sit
when not speaking.)

CARL DONAUGH

Your Honor. The indictment charges the defendant Minoru Yasui with having failed to comply with Public Proclamation No. 3. The Government charges that the defendant, a Japanese, by reason of being a person of Japanese ancestry, was absent from his place of residence on and about March 28, 1942, by failing to comply with the orders requiring that all persons of Japanese ancestry be at their places of residence from 8 P.M. until 6 A.M. the following day.

The facts are that he appeared here in Portland after the 8 o'clock hour, walking into the Police Station at 11 P.M., or thereabouts, and was taken into custody by the Portland Police Department. That, in brief, your Honor, is the nature of the offense charged.

The Government is also prepared to introduce other testimony concerning the defendant, and if the opportunity presents, the Government has information as to certain beliefs which may be shared by persons of Japanese ancestry, should such evidence be pertinent to the case in hand.

EARL BERNARD

If your Honor pleases. The evidence in this case will show that Mr. Yasui is an American citizen, and we will introduce evidence to show that he has never been divested of that citizenship, and that at the time of the alleged commission of the acts charged in this indictment he was an American citizen and entitled to all the privileges and immunities that attach to that status.

It will be our contention that this proclamation as applied to this defendant, and, indeed, the Executive Order of the President, are void as a violation of the constitutional rights that attach to citizenship, and it will be our further contention that the war power of the Government of the United States does not diminish constitutional guaranties, particularly the guaranties attaching to citizenship under the fourth, fifth and sixth amendments to the Constitution of the United States.

JUDGE FEE

Proceed.

Scene 4: The Government's Case

(During following, SERGEANT MAAS
moves to the "witness stand.")

NARRATOR 2

The Government called as its first witness Sergeant William
Maas of the Portland police department.

CARL DONAUGH

Did you, at any time on March 28, 1942, have occasion to see
Minoru Yasui, the defendant in this case?

SERGEANT MAAS

Yes, sir.

CARL DONAUGH

Whereabouts did you see him?

SERGEANT MAAS

He came into the Police Station.

CARL DONAUGH

At what time?

SERGEANT MAAS

Eleven-twenty P.M.

CARL DONAUGH

What took place when he came into the Police Station?

SERGEANT MAAS

He came in and said he wanted to be arrested, he wanted to
test the constitutionality of that alien curfew law. He said
he had been down in the North End; he asked several policemen
down there to arrest him, but they wouldn't do it, and so he
came into the Station.

CARL DONAUGH

Did you have any further conversation with him?

SERGEANT MAAS

He told me he was an American citizen, he lived at Hood River,
and he wanted to test this case for the Japanese.

CARL DONAUGH

And he was placed under arrest, was he?

SERGEANT MAAS

Yes, sir.

CARL DONAUGH

Have you had occasion at any time to talk to him again?

SERGEANT MAAS

No.

CARL DONAUGH

That is all, Sergeant.

EARL BERNARD

No cross-examination.

(MAAS leaves the stand.)

VIGNETTE 1: IMPACT OF CURFEW.

NARRATOR 1

The Government next called Special Agent Vincent Quinn of the FBI.

(QUINN moves to the stand.)

Quinn had interviewed Yasui twice: first, in January 1942, shortly after the declaration of war against Japan, when Yasui visited the FBI, and second, in April 1942, a few days after Yasui was arrested for violating the curfew.

CARL DONAUGH

Will you state when you spoke with the defendant, Minoru Yasui?

VINCENT QUINN

On January 12, 1942 Mr. Yasui visited our office, at which time he advised that he was returning from Chicago, Illinois, where he had been employed by the Japanese Consulate. He exhibited to me a card verifying that he was registered with the Department of State as an agent for a foreign principal. Mr. Yasui told me that he withdrew the registration on December 8th. He also exhibited to me a certified copy of a birth certificate, which showed that he was born in Hood River, Oregon. Mr. Yasui also advised me that he was a Second Lieutenant in the United States Army and that he expected to report for a physical examination around January 19, 1942, at which time he thought he would be inducted into the active forces of the United States.

CARL DONAUGH

When did you speak with the defendant again?

VINCENT OUINN

On April 3rd, I visited at the Portland Police Department after our office had been advised that Mr. Yasui had surrendered himself.

CARL DONAUGH

Did he make any statement as to the nationality of his parents?

VINCENT QUINN

Yes. He told me they were Japanese aliens.

CARL DONAUGH

Do you know how long the family or the parents of the defendant have lived at Hood River?

VINCENT QUINN

That was not discussed, although Mr. Yasui told me that his father was not at Hood River at that time.

CARL DONAUGH

Was any information given you concerning the defendant's education?

VINCENT QUINN

Yes, he stated that he had graduated from the University of Oregon. He stated that he had been admitted to practice before the local courts and that he was an attorney at law.

CARL DONAUGH

Now, you mentioned that he withdrew from his employment with the Japanese Consul General on, did you say, December 9th?

VINCENT QUINN

December 8th, 1941, the day after the declaration of war with Japan.

CARL DONAUGH

You testified a moment ago about the defendant holding a commission in the United States Army. Do you know how he acquired that commission, or when?

VINCENT QUINN

He advised me that he acquired the commission by taking a reserve officers' training course while attending the University of Oregon R.O.T.C. course.

CARL DONAUGH

And he still held that commission at the time you talked with him?

VINCENT QUINN

He stated that he did.

CARL DONAUGH

That is all, Mr. Quinn.

(Quinn starts to leave the stand, but stops when Bernard speaks.)

EARL BERNARD

Just a moment; I want to ask you a question or two, Mr. Quinn. Your first contact with this man was on January 12th, was it?

SPECIAL AGENT QUINN

That is right.

EARL BERNARD

Did he come to your office voluntarily, or had you sent for him?

VINCENT QUINN

He came to the office voluntarily.

EARL BERNARD

Did he state what the purpose of his call was?

VINCENT QUINN

He did.

EARL BERNARD

What was it?

VINCENT QUINN

He stated that he came to the office to inquire as to whether or not he could assist his father in any way. His father at the time was in Federal custody. He had been apprehended as an alien enemy.

EARL BERNARD

Well, you mean his father had been taken into custody up at Hood River as an alien enemy.

VINCENT QUINN

That is right.

EARL BERNARD

And after discussing that matter, did Minoru Yasui tell you that he had been employed in the Japanese Consul's office at Chicago?

VINCENT QUINN

That is right.

EARL BERNARD

Did he tell you in what capacity he had been employed?

VINCENT QUINN

He stated that he was doing general secretarial work and acting as a clerk.

EARL BERNARD

Did he tell you when he had resigned this position in Chicago?

VINCENT QUINN

Yes, he did. He stated that he had notified the Secretary of State on December 8th, 1941. He stated that his father asked him to do so.

EARL BERNARD

I think that is all, Mr. Quinn.

(Quinn leaves the stand.)

NARRATOR 2

Quinn was not asked about the circumstances under which Yasui's father had been taken into custody. The attack on Pearl Harbor had unleashed an immediate storm of anti-Japanese prejudice and resentment. Well before the military orders were issued, FBI agents swept through Japanese-American communities in California, Oregon, Washington, and Hawaii, arresting hundreds of Japanese-Americans. Yasui's father was among them. Community leaders, teachers, religious figures, and businessmen suspected of having ties to Japan were rounded up, questioned, and detained. As the anti-Japanese sentiment built, Japanese-Americans -- citizens and non-citizens alike -- lived in a state of fear.

VIGNETTE 2: PREJUDICE AFTER PEARL HARBOR

(RAY MIZE takes the stand.)

NARRATOR 1

Ray Mize, another FBI agent, testified next. He had interviewed Yasui in March 1942, two days after his arrest. Mize testified that Yasui made two incriminating statements. First, he said he was sorry for violating the curfew and, second, he agreed with the Government's decision to intern Japanese-Americans.

CARL DONAUGH

Why did you talk to him?

RAY MIZE

At my request, Mr. Yasui called at the office to be questioned as to the violation of the curfew regulation.

CARL DONAUGH

What was said?

RAY MIZE

Mr. Yasui discussed with me a little bit of his background. He then stated that he had given himself up voluntarily at the Police Station to test the constitutionality of the regulation. He stated that he was an American citizen of Japanese descent and he felt that the regulation was unconstitutional, because it discriminated against one group of United States citizens and did not apply to all citizens, and he felt that the large majority of the Japanese citizens in this country were loyal to this country and wanted to do their part in the present war.

CARL DONAUGH

What else was said?

RAY MIZE

I discussed with him briefly the war itself and asked him whether he felt that the Japanese government had acted fair and square in the present war, and he said frankly that he did not think that the Japanese government had, and as a result American citizens of Japanese descent in this country were being unjustly discriminated against and would suffer for the crimes of another.

CARL DONAUGH

Was there anything else?

RAY MIZE

I asked him if he felt that during these particular times his action in violating the curfew would reflect very favorably on the Japanese colony. Mr. Yasui stated that when thinking it over he did not think that it would be a very good reflection and that in a certain sense he was sorry that he had taken that action. I asked Mr. Yasui what he would do if he was in charge of the West Coast here, and an invasion of this country was very probable, and I asked him what he would do to be very sure that the internal security of this country would be absolutely protected, and Mr. Yasui said, "Well, that is a rather hard question at this time," but after due hesitation he finally stated that "I feel I would intern all Japanese aliens and Japanese citizens." That is all.

EARL BERNARD

Just one question. Mr. Mize, did I understand you to say that he told you that the reason that he had resigned was that he felt that he then could not be a loyal American and keep his employment in the Consul General's office?

RAY MIZE

He implied as much, Mr. Bernard.

EARL BERNARD

That is all.

(Mize leaves the stand. FBI Agent
ALAN DAVIS takes the stand.)

NARRATOR 1

We turn now to the testimony of another FBI agent, Alan Davis, who was present when Mize interviewed Yasui in March.

CARL DONAUGH

Will you state the nature of the conversation you had with the defendant at that time?

ALAN DAVIS

Mr. Mize had been discussing affairs with Mr. Yasui when I entered the room, and I had previously known Mr. Yasui and I started talking with him, regular conversation. We were discussing the patriotism of the Japanese, and the question was asked by Mr. Mize as to the loyalty of the Japanese in Oregon, whether Mr. Yasui could say that he could depend upon them if there were an attempted invasion in this country, whether he would detain all the Japanese, including the aliens as well as the American-born Japanese citizens.

ALAN DAVIS (cont'd)

Mr. Yasui more or less hesitated in answering the question, but he stated quite definitely that he would intern not only the aliens but also the American-born Japanese in that case.

CARL DONAUGH

You had known the defendant previously, had you?

ALAN DAVIS

Yes, sir.

CARL DONAUGH

At the University of Oregon?

ALAN DAVIS

Law School and prior to our entrance in Law School, yes, sir.

CARL DONAUGH

Now, the circumstances under which Mr. Yasui talked with you and with Mr. Mize were what? Was there any discussion at all as to what consideration he would receive by you should he testify or speak to you about this matter?

ALAN DAVIS

No, sir.

CARL DONAUGH

No threats or--

ALAN DAVIS
(interrupting)

No, sir.

CARL DONAUGH

-- duress of any kind?

ALAN DAVIS

No, sir.

CARL DONAUGH

Promises?

ALAN DAVIS

None.

CARL DONAUGH

He seemed to be talking freely and with ease to you?

ALAN DAVIS

Yes, sir.

EARL BERNARD

Now, as I understand it, Mr. Davis, you came in on March 30th when Mr. Yasui had already been engaging in a conversation with Mr. Mize?

ALAN DAVIS

Yes, sir.

EARL BERNARD

And something came up about locking up the Japanese to prevent sabotage?

ALAN DAVIS

I did not mention sabotage, no, sir.

EARL BERNARD

Locking them up for what purpose?

ALAN DAVIS

Well, for protection of this country.

EARL BERNARD

Well, in what way?

ALAN DAVIS

Well, I would assume that he meant that he would be unable to trust the Japanese on the West Coast.

EARL BERNARD

Pardon me, I am asking you what he said about that.

ALAN DAVIS

Well, he stated that if he had anything to do with it and there might be an attempted invasion of this country he would detain aliens as well as the citizens.

EARL BERNARD

And how did he come to say that, do you remember? What brought that up?

ALAN DAVIS

The question was asked by Mr. Mize, as I recall, that if he should be in charge of military affairs on the West Coast, what he might do under those circumstances.

EARL BERNARD

Now, let me refresh your recollection. Isn't this about what happened, that somebody was pressing the subject as to how the commander of the army would be absolutely sure of the protection of the country without locking up the Japanese, and Mr. Yasui said, "Well, if you wanted to be absolutely sure I suppose they would be locked up," and that somebody remarked, "To the same extent that if God wanted to be absolutely sure that there wouldn't be any wars fought, why, we should kill off all the human beings." Now, does that refresh your recollection any?

ALAN DAVIS

No, sir.

EARL BERNARD

I see. That is all.

(Davis leaves the stand.)

NARRATOR 2

The Government concluded its case by calling two witnesses who had been members of the Alien Enemy Hearing Board in Oregon. They had participated in a hearing in Fort Missoula, Montana, in February 1942 to determine the fate of Yasui's father after he was detained as an enemy alien. Now the Government sought to use Yasui's testimony at the hearing to show that he was disloyal.

(LESLIE SCOTT takes the stand.)

NARRATOR 1

The second of these witnesses was Leslie Scott, the state treasurer of Oregon.

CARL DONAUGH

Have you had any connection, Mr. Scott, with the alien enemy situation in Oregon?

LESLIE SCOTT

A member of the Alien Enemy Hearing Board for this state.

CARL DONAUGH

And in connection with your duties as a member of the Alien Enemy Hearing Board, have you before today seen the defendant?

LESLIE SCOTT

At Fort Missoula, on February 3rd, at a hearing of the Board, Mr. Yasui testified on behalf of his father.

CARL DONAUGH

Do you recall, Mr. Scott, what the defendant said with respect to his own activities and employment?

LESLIE SCOTT

He stated that he had been in the service of the Japanese Consul General in Chicago as secretary to the Consul General and as a public relations agent or representative.

CARL DONAUGH

Was anything said in regard to his duties as public relations representative?

LESLIE SCOTT

He was to attend to the correspondence of the Consul General, he, Mr. Yasui, having ready command of English, and he was to make speeches on subjects approved by the Consul General.

CARL DONAUGH

Was anything said as to how many speeches were delivered?

LESLIE SCOTT

I don't now how numerous they were. I gained the impression that they were rendered on a number of occasions before groups of American citizens.

CARL DONAUGH

Did he say what the subjects of these talks were?

LESLIE SCOTT

They pertained to the conduct of the Japanese war against the Chinese, justification of Japanese policy toward China, and justification of the war against China.

CARL DONAUGH

Was there any discussion before your Board concerning how the defendant obtained his position with the Japanese Consul General's office?

LESLIE SCOTT

Yes. Mr. Yasui said that he had graduated from the University of Oregon Law School, and his father was desirous of making a connection for him with the Japanese Consul General. The father wrote a letter to the Consul General describing the qualifications of the young man.

CARL DONAUGH

I take it, then, that his employment with the Japanese Consul General was on the basis of the recommendation of his father, is that correct?

LESLIE SCOTT

That was the distinct impression that the Board received.

CARL DONAUGH

And the father was also before your Board?

LESLIE SCOTT

The father was before our Board at the time and the son appeared as friend or relative or advisor of his father.

CARL DONAUGH

And what was the nationality of the father?

LESLIE SCOTT

The father is a native-born Japanese. The son was born in the United States; he was 25 years of age last February. The father had given the son the advantages of an American education.

(Leslie Scott leaves the stand.)

NARRATOR 2

Following the Alien Enemy Board hearings in Missoula in February 1942, Yasui's father was classified "disloyal." He was kept in detention until 1945.

NARRATOR 1

The Government concluded its direct case by offering certain exhibits. Donough first read from Public Proclamation No. 1, which declared "the entire Pacific Coast of the United States" a military zone because it was...

CARL DONAUGH

"...particularly subject to attack, to attempted invasion by the armed forces of nations with which the United States is now at war, and...to espionage and acts of sabotage."

NARRATOR 1

Donough then read from Public Proclamation No. 3...

CARL DONAUGH

"From and after 6 a.m., March 27, 1942, all alien Japanese, all alien Germans, all alien Italians, and all persons of Japanese ancestry residing or being within the geographical limits of [the designated areas]...shall be within their place of residence between the hours of 8 p.m. and 6 a.m....the hours of curfew."

(after a brief pause)

The Government rests, your Honor.

Scene 5: The Case for the Defense

NARRATOR 2

The defense called only one witness, Minoru Yasui himself.

(MINORU YASUI takes the stand.)

EARL BERNARD

Your name is Minoru Yasui?

MINORU YASUI

That is correct.

EARL BERNARD

And you are the defendant in this criminal action?

MINORU YASUI

I am, sir.

EARL BERNARD

Have you ever in your lifetime received any questionnaire from the government of Japan relative to your willingness to engage in any military activity or any activity in Japan?

MINORU YASUI

I have received no such questionnaire from the government of Japan.

EARL BERNARD

Did you ever take a trip to Japan?

MINORU YASUI

Yes, sir, I did.

EARL BERNARD

When?

MINORU YASUI

To the best of my recollection it was in 1925, when I was about eight years old. We left the United States sometime in July and returned approximately in September. It was just a summer vacation.

EARL BERNARD

Were you asked when you were over there to take any oath of allegiance or do anything towards taking out citizenship in Japan?

CHARLES BURDELL

Object to that as immaterial, your Honor.

JUDGE FEE

The objection is sustained.

EARL BERNARD

I wish to make an offer of proof, your Honor. I offer to prove by this witness that while he was in Japan at that time he did not take an oath of allegiance to Japan or take any steps to become a citizen of Japan.

JUDGE FEE

He couldn't. He was a minor. He had no election until after he had passed the age of twenty-one.

EARL BERNARD

By the way, this trip that you took to Japan when you were about [eight] years old, were you ever in Japan after that?

MINORU YASUI

No, sir, I have never been in Japan since that time.

EARL BERNARD

Ever resided in any foreign country at all?

MINORU YASUI

No, sir.

EARL BERNARD

Have you voted in the United States?

MINORU YASUI

I have, sir.

EARL BERNARD

Have you ever voted in any other country?

MINORU YASUI

No, sir, I have not.

EARL BERNARD

Now, what date did you finish Law School, Mr. Yasui?

CHARLES BURDELL

If the Court please, I object to that as incompetent, irrelevant, and immaterial.

JUDGE FEE

Oh, I think it is preliminary. He may answer.

EARL BERNARD

When did you finish Law School?

MINORU YASUI

In June of 1939.

EARL BERNARD

And when did you go to work for the Consul General in Chicago?

MINORU YASUI

The following year, in April, 1940.

EARL BERNARD

And what did you do in the meantime?

MINORU YASUI

Well, pending the results of the bar examination I helped as a ranch hand on my father's farm. In approximately September we heard the results, and having completed the bar, I attempted to practice law both in Hood River and, for a short while, in Portland, Oregon.

VIGNETTE 3: LIFE IN JAPANTOWN, PORTLAND, OR

NARRATOR 1

Bernard then asked Yasui to explain his work at the Japanese Consul General, seeking to dispel the notion that Yasui was a disloyal American or a Japanese loyalist.

EARL BERNARD

Now, tell the Court how you secured this position.

MINORU YASUI

There was a letter written by my father to the Consul General stating that I had graduated law school. I secured letters of recommendation from Dean Wayne L. Morse, of the Oregon Law School, and from people in Hood River and in Portland. Because there was a need for a man who could speak English as well as Japanese and, I suppose, also because of my record at the University of Oregon, I was selected.

EARL BERNARD

And when did you go to Chicago?

MINORU YASUI

I arrived in Chicago on April 1st, 1940.

EARL BERNARD

Were you required at that time to take any oath of allegiance?

MINORU YASUI

I was not required--

CHARLES BURDELL

Objected to, your Honor, as incompetent, irrelevant, and immaterial.

JUDGE FEE

Well, I am not sure that it is incompetent, if he took an oath of allegiance after he arrived at the age of majority.

CHARLES BURDELL

Well, your Honor, the defendant is charged with violating Public Proclamation No. 3, which applies to all persons of Japanese ancestry residing or being within the geographical limits of Military Area No. 1. It is not limited to alien Japanese.

JUDGE FEE

I know it is not, and that is what makes me doubt its constitutionality; therefore, I hold that the proof is competent to establish whether there be citizenship, notwithstanding that your indictment did not allege that this man was a citizen. Proceed.

EARL BERNARD

Would you read the witness the question, Mr. Reporter.

COURT REPORTER

"Were you required at that time to take any oath of allegiance?"

MINORU YASUI

I was not required to take any oath of allegiance when I began my employment with the Consulate General in Chicago.

EARL BERNARD

At any time during your employment?

MINORU YASUI

No, sir.

EARL BERNARD

Now, will you please state to the Court your duties in that position and what you did.

MINORU YASUI

I was employed as a general secretary in charge of the correspondence. There was an American fellow by the name of Bob Murphy and myself. We received the morning mail, submitted them to the Consul General, and the Consul General would submit one of the letters to either Murphy or myself to answer, because of our facility with the English language. Also on various occasions the Rotary Clubs and civic organizations would call upon the Consul to send a man to explain the position of Japan in the Far East, or perhaps some club or organization would want to know about flower arrangements. I did go to such meetings to make such speeches.

EARL BERNARD

I believe one of the witnesses testified that you said up in Missoula that you were first a secretary and then a sort of public relations man.

MINORU YASUI

Well, as I recall my testimony at Fort Missoula, no such statement was made that I was ever a public relations man. However, I did testify, as I do now, that I did make certain speeches there, if that be so construed as public relations.

EARL BERNARD

And did you make speeches with regard to Japan's position in the war with China?

MINORU YASUI

Yes, I did, sir.

EARL BERNARD

When did you first hear of the attack on Pearl Harbor?

MINORU YASUI

On December 7, 1941.

EARL BERNARD

When did you resign your position?

MINORU YASUI

As I recall, on the 8th day of December, 1941.

EARL BERNARD

And why did you resign?

MINORU YASUI

Because I felt that as a loyal American citizen I could not be working for the Japanese Consulate after the declaration of war.

EARL BERNARD

Did you receive any advice on that from anybody?

MINORU YASUI

No advice that prompted me to so act, except possibly a telegram from my father, that he wired me that now that this country--

EARL BERNARD

You can't state the contents of it. I would like this wire marked for identification.

(He shows telegram to Yasui.)

Is this the wire you received from your father?

MINORU YASUI

Yes.

EARL BERNARD

I would like to offer the wire in evidence.

(He hands wire to Judge.)

CHARLES BURDELL

Objection as immaterial. We also object that it is hearsay and self-serving.

JUDGE FEE

The Court has ruled that it is pertinent to show whether this defendant is an American citizen. That depends on the question of his intention. The objection that this is self-serving goes simply to the question of weight rather than admissibility. I think it may throw some light on his intention. It is admitted.

EARL BERNARD

This is a telegram dated December 8th, 1:00 A.M., Hood River, Oregon, addressed to Minoru Yasui. It reads: "As war has started your country needs your service as a United States reserve officer. I as your father strongly urge you to respond

to the call immediately." What did you do about offering your services to your country, Mr. Yasui?

MINORU YASUI

Before that--

JUDGE FEE

Just a moment. I think that is objectionable.

EARL BERNARD

Well, I don't know what your Honor has in mind. I am offering it also as to his intentions.

JUDGE FEE

You may ask him what he did toward offering his services to Japan or the United States, whichever you wish.

EARL BERNARD

All right, I will confine it to the United States. What did you do towards offering your services to the United States?

MINORU YASUI

I immediately wired Headquarters, at Portland, Oregon, offering my immediate services.

EARL BERNARD

Have you ever been called to active service, Mr. Yasui?

MINORU YASUI

No, sir.

EARL BERNARD

And are you willing to go in active service at any time?

MINORU YASUI

I am, sir.

NARRATOR 2

In fact, after he had resigned his position with the consulate in Chicago, Yasui reported for duty to Fort Vancouver in Washington, across the Columbia River from Portland.

NARRATOR 2 (cont'd)

After just one day, however, he was ordered off the base because of his ancestry. He would go back to the Fort eight times trying to serve, but each time he was turned away.

EARL BERNARD

Now, when did you return to the West?

MINORU YASUI

I returned to Portland on January 12, 1942.

EARL BERNARD

When did you go up to the FBI office?

MINORU YASUI

On the afternoon of my arrival here in Portland.

EARL BERNARD

What was your purpose in going to the FBI office?

MINORU YASUI

The FBI Special Agent in Chicago suggested it would be wise for me to keep in touch with the FBI agents in Portland.

EARL BERNARD

And it was for that reason that you went up there?

MINORU YASUI

And incidentally to inquire about my father, whom I had not seen for the last two years.

EARL BERNARD

Now, you had a conversation with Mr. Mize. State your version of that conversation.

MINORU YASUI

In general, the conversation as reported by Mr. Mize is correct. We did discuss our school days, and then Ray Mize posed the question that if I were the Commander in Chief, knowing that an imminent invasion was possible, how would I be absolutely sure that the security of this country would not be in danger. Well, the only logical answer would be to intern the Japanese. However, I asked the academic question, if Mize himself was God almighty how would he be absolutely sure to prevent wars? Mize answered that he would destroy the people. Of course, that is the extreme view, but we did converse along those lines.

EARL BERNARD

Well, at that time do you know whether there had been any orders removing the American citizens?

MINORU YASUI

At that time there was no such order.

EARL BERNARD

And this was a sort of an academic discussion?

MINORU YASUI

It was a hypothetical question at the time, yes, sir.

EARL BERNARD

I believe Mr. Mize also said that you were sorry that you had taken the action that you had.

MINORU YASUI

The question was whether I believed any repercussions would happen from my testing the constitutionality of the curfew act, and I believed that possibly there would be repercussions that would be harmful to the Japanese colony.

EARL BERNARD

And what did you have in mind when you made that last statement?

MINORU YASUI

Well, there is always a possibility of more stringent regulations being imposed, and, secondly, the public resentment against anyone, possibly, testing the constitutionality of an Army order.

EARL BERNARD

Now, have you ever obtained or attempted to obtain naturalization in any foreign state whatsoever?

MINORU YASUI

No, sir, I have not.

EARL BERNARD

Have you ever taken an oath or made a declaration of allegiance to a foreign state?

MINORU YASUI

No, sir.

EARL BERNARD

Have you ever entered into or served in the armed forces of a foreign state?

MINORU YASUI

No, sir, I have not.

EARL BERNARD

Have you ever deserted the military or naval services of the United States?

MINORU YASUI

No, sir, I have not.

EARL BERNARD
In time of war or otherwise?

MINORU YASUI
No, sir.

EARL BERNARD
Have you ever committed any act of treason or attempted by force to overthrow or bear arms against the United States?

MINORU YASUI
No, sir.

EARL BERNARD
And, as far as you know, have you ever, either intentionally or unintentionally, done any act to renounce citizenship in the United States of America?

MINORU YASUI
To the best of my knowledge, I have never renounced my American citizenship.

NARRATOR 1
The relocation and internment orders had resulted in many Japanese-American families being torn apart, as in many instances family members were dispersed to different camps.

EARL BERNARD
Where are you residing now?

MINORU YASUI
Presently I am at the W.C.C.A. Assembly Center at North Portland, Oregon.

EARL BERNARD

That is where the Japanese are being detained twenty-four hours a day?

MINORU YASUI

That is correct, sir.

EARL BERNARD

Do you know where your father's residence is?

MINORU YASUI

I understand it to be at Camp Livingston, Louisiana.

EARL BERNARD

And where is your mother?

MINORU YASUI

I believe in Pineville, California.

EARL BERNARD

Have you got some sisters?

MINORU YASUI

Yes, sir, one sister. I believe she is now in Denver, Colorado.

EARL BERNARD

She was younger than you?

MINORU YASUI

Yes, sir. She just graduated at the University of Oregon.

VIGNETTE 4: FAMILY SEPARATIONS

CARL DONAUGH

Do you speak Japanese?

MINORU YASUI

I do, sir.

CARL DONAUGH

And where did you learn to speak Japanese?

MINORU YASUI

I learned it from my parents.

CARL DONAUGH

Do you speak Japanese in your home?

MINORU YASUI

To a certain degree, yes, sir.

CARL DONAUGH

Have you spoken Japanese for a good many years?

MINORU YASUI
Ever since I can recall.

CARL DONAUGH
Ever go to a Japanese language school or Japanese school of any kind?

MINORU YASUI
Yes, sir, for three years.

CARL DONAUGH
Whereabouts was that?

MINORU YASUI
At Hood River, Oregon.

CARL DONAUGH
What was the name of that school?

MINORU YASUI
I think they called it the Japanese language school.

CARL DONAUGH
Did you have any Japanese societies or organizations which you attended in Hood River or elsewhere?

MINORU YASUI
By Japanese societies what do you mean?

CARL DONAUGH
Organizations or associations of Japanese people?

MINORU YASUI
There is the Japanese Methodist church, of which my father and mother are members, which I attended on Sundays; and the Japanese-American Citizens League; and that is about all.

CARL DONAUGH
Ever belong to any Japanese fencing clubs?

MINORU YASUI
No, sir.

CARL DONAUGH
Or riding clubs of any kind?

MINORU YASUI
No, sir.

CARL DONAUGH
Are you a member of the Methodist church?

MINORU YASUI
I am, sir.

CARL DONAUGH

In the Japanese language school what language is used there?

MINORU YASUI

Both English and Japanese.

CARL DONAUGH

But you went there to learn and become proficient in Japanese, is that it?

MINORU YASUI

To attempt to become proficient, yes.

NARRATOR 2

These seemingly innocuous matters were an important part of the Government's strategy. It would later argue to the Supreme Court that Japanese language schools, organizations and societies were used to "indoctrinate" the Japanese on the West Coast with Japanese nationalism.

NARRATOR 1

Donaugh then turned his attention to Yasui's employment at the Japanese consulate and his father's involvement in the community. The Government suggested that his ties to Japan showed Yasui's disloyalty to the United States. But it was only after Yasui had been unable to find employment as a lawyer that his father helped him obtain the consulate position in Chicago. What's more, while Yasui's father was indeed a leader in Oregon's Japanese-American community, he had also been active in the apple growers' association in Hood River — which was largely white.

VIGNETTE 5: PICKING APPLES IN HOOD RIVER

CARL DONAUGH

You didn't know the Japanese Consul General directly?

MINORU YASUI

No, sir.

CARL DONAUGH

Then your contact with him was through whom?

MINORU YASUI

My father.

CARL DONAUGH

Did your father and the Consul have any close contacts, so far as you know?

MINORU YASUI

Well, as I understand, the Hood River community has about five hundred Japanese, and every Consul here goes up to Hood River about once a year to contact various people, and my father

through those contacts had undoubtedly met the Japanese Consul.

CARL DONAUGH

Your father has been rather active in the Japanese colony in Hood River, hasn't he?

MINORU YASUI

He has been very, very active in advancing the betterment of that community, yes, sir.

CARL DONAUGH

Contributed money to the Japanese war fund?

MINORU YASUI

As to that I have no knowledge.

CARL DONAUGH

Well, isn't it a fact that your father testified in your presence before the Alien Hearing Board that he had contributed money to the Japanese war fund!

EARL BERNARD

We will object to that, your Honor. This young man would not be bound, under the circumstances there prevailing, by anything that his father said in that hearing.

JUDGE FEE

No, I don't think it is binding. I will sustain the objection.

CARL DONAUGH

Were you present at the ceremony in the Japanese Consul's office in Portland when your father was given a high honor by the Japanese government in 1940?

MINORU YASUI

No, sir, I was not.

CARL DONAUGH

You are aware of the fact that he received recognition by the Japanese government?

MINORU YASUI

For the work that he had done in promoting better relations between the Japanese and Americans in Hood River Valley, yes.

CARL DONAUGH

Now, in regard to your work in Chicago, you had occasion to deliver speeches occasionally at the request of the Consul General?

MINORU YASUI

That is correct, sir.

CARL DONAUGH

And where would you receive your directions to deliver a speech at a certain time?

MINORU YASUI

From the Consul General.

CARL DONAUGH

Well, now, when you went to work for the Japanese government through the Japanese Consul General, you were aware, were you not, that conditions between Japan and the United States over a number of years had caused considerable comment and difficulty, indicating the possibility of strained relations between this country and Japan? You knew that, did you not?

MINORU YASUI

Yes, I did.

CARL DONAUGH

Did you not know that even as far back as 1937, an American gunboat and American sailors had been fired on by the Japanese, and that and a series of companion acts in China, where American citizens were involved, had caused strained conditions between those two countries?

MINORU YASUI

Yes, I understood all those things and it was my purpose when I worked for the Consul General of Japan possibly to work for a better relationship.

CARL DONAUGH

But you testify that you had no discretion in what you did, that you did what you were told to do by the Japanese Consul?

MINORU YASUI

That is correct.

CARL DONAUGH

And you did not exercise your opinions as an American citizen, but did what the agent of the Japanese government asked you to do and said what he asked you to say?

MINORU YASUI

That is correct, to bring out what the Japanese government had to say to the attention of the American people, to express it so it could be understood.

CARL DONAUGH

And well knowing that the attitude of this Government and the American people was contrary to the policy of Japan that you were defending, speaking about?

MINORU YASUI

Because I thought it was my contribution to the preservation of peace. As it turned out, we were wrong, but that was my sincere purpose in working for the Consulate General of Japan.

CARL DONAUGH

That is all.

(Min starts to leave, is stopped by Fee's question.)

JUDGE FEE

What is Shinto?

MINORU YASUI

Shinto? As I understand, Shinto is the national religion of Japan.

JUDGE FEE

Do you give adherence to its precepts?

MINORU YASUI

My father and mother were Methodists in Japan, and I myself have been a Methodist in this country and I don't know the precepts of the Shinto religion.

JUDGE FEE

Was not Shinto practiced in your household?

MINORU YASUI

No, sir.

JUDGE FEE

By your father and mother?

MINORU YASUI

It was not, no, sir.

JUDGE FEE

That includes some of the phases of ancestor worship, does it not? You know enough about it to know that.

MINORU YASUI

Yes, if I understand it, that is so.

JUDGE FEE

Does the Emperor of Japan have a religious capacity?

MINORU YASUI

Well, I am not really versed enough to state definitely, but I understand that he has, yes.

JUDGE FEE

And do you give adherence to that belief?

MINORU YASUI

I do not. To me he is a human being.

JUDGE FEE

And you do not accept divine pretensions on the part of the Emperor of Japan?

MINORU YASUI

No, sir, I do not.

JUDGE FEE

Were offerings ever made in the graveyard or before the grave of any of the people of your family?

MINORU YASUI

Offerings? Floral offerings, yes, on Memorial Day and on Sundays.

JUDGE FEE

Were there not food offerings placed?

MINORU YASUI

There were no food offerings placed. Both my father and mother are good, devout Methodists. They are really Christians.

JUDGE FEE

Do you believe in the sanctity of an oath?

MINORU YASUI

I do, sir.

JUDGE FEE

Have you accepted an oath of allegiance to the United States?

MINORU YASUI

I did.

JUDGE FEE

And on that occasion did you accept some other obligations?

MINORU YASUI

To preserve and defend the Constitution of the United States, yes.

JUDGE FEE

You still hold a commission as a reserve officer in the Army of the United States?

MINORU YASUI

I do.

JUDGE FEE

Is there any obligation on you, under those circumstances, to obey an order of the Commanding General of the Western Command or the President of the United States as Commander-in-Chief of the Armies?

MINORI YASUI

Yes, I believe that there is a certain obligation as an American citizen to respect the Constitution of the United States.

JUDGE FEE

I am not speaking of your obligation as an American citizen. I am speaking of your obligation as a reserve officer in the Army of the United States.

MINORI YASUI

At the time of my active service, I will obey any order of my commanding officer.

JUDGE FEE

You don't think that your oath requires you to obey any order of the Commander-in-Chief of the Armies of the United States until he calls you to active service?

MINORI YASUI

As a private citizen--

JUDGE FEE

I am not talking about your obligation as a private citizen. I am talking about your obligation as a reserve officer of the United States Army. What are the obligations?

MINORI YASUI

To hold myself in readiness for active service at any time; to obey the Constitution and laws of the United States.

JUDGE FEE

And you thought there was no special obligation on you to obey this particular order?

MINORI YASUI

Yes, I took that into consideration, but I feel that, after all, this country is dedicated to the proposition that all men are created equal, that every American citizen has a right to walk up and down the streets as a free man, and I felt that these regulations were not constitutional.

JUDGE FEE

If as a Second Lieutenant on active duty you had been given the same order by the Commanding General of the Western Department, would you have obeyed it?

MINORI YASUI

I would have, sir.

JUDGE FEE

And what distinction do you make now?

MINORI YASUI

Because I am now a civilian.

JUDGE FEE

And in the event you were on active duty, would you then think it was proper to by indirection disobey such a command by invoking other people, Japanese people, to test the constitutionality of this as a law?

MINORI YASUI

No, I would not, because at that time, if I were in active service, I would obey the command of my commanding officer, wherever he sent me.

JUDGE FEE

No matter where he sent you?

MINORI YASUI

Yes.

JUDGE FEE

Would you also construe the oath of allegiance to allow you to disobey an order, any order, that was incumbent upon an American citizen?

MINORI YASUI

No, sir, I could not.

JUDGE FEE

I think that is the extent of my examination. You may step down.

EARL BERNARD

The defendant will rest his case, your Honor.

(Yasui returns to Defense Table.)

Scene 5: The Government's Rebuttal Case

NARRATOR 1

The Government immediately called a rebuttal witness, a union representative, to testify about labor disputes involving Japanese workers. The Government's theory was that the curfew order was a reasonable response to the hostilities that had arisen between white and Japanese workers.

EARL BERNARD

Objection. Your Honor, the fact that there may have been some labor troubles between white people and Japanese would not affect the question one way or the other as to whether the Government has a right to discriminate against Japanese citizens because of their race. How the fact that there might have been some isolated labor trouble in some locality between Japanese and white people should justify a discrimination against my client, who was not a party to that, solely on the ground of his ancestry -- we object to as wholly immaterial to any issue in the case.

JUDGE FEE

Sustained.

NARRATOR 2

The Yasui case was the first to go to trial, but it involved only the curfew. The more difficult cases would follow - those involving the Government's power to intern Japanese-Americans in barbed-wire camps. The Government wanted to test its argument that their racial characteristics made Japanese-Americans more likely than others to engage in subversive activities.

CHARLES BURDELL

May it please the Court, I desire to advise your Honor of the availability of a man who is familiar with the Orient, and in particular the Japanese people, a distinguished scholar, an educator. He is available to testify as to the Japanese as a race of people, and to their ideals and culture and their type of loyalty. Now, this man is here as an expert, and, in view of the nature of this case, before the Government closes its case I desire to inform the Court of the availability of this man.

EARL BERNARD

Well, your Honor, if this man has any evidence against my client, of course I can't object to it, but I certainly am going to object to any testimony or dissertation by some man as to his conclusions as to what some of the Japanese might do under certain conditions...

JUDGE FEE

Why, I will exclude the general offer. I can't tell from this general offer what the specific matters are to be proved, and if it is just general like that, I have no interest in hearing it. If you wish, put him on the stand, and I will rule on the questions as they come up.

CHARLES BURDELL

Well, obviously, your Honor, the witness has no acquaintance whatever with the defendant. His testimony would deal with the Japanese and their attitude, their race, culture, religion, both here in America and in Japan. I only advise the Court of his presence here should his testimony be of interest to your Honor.

JUDGE FEE

I might say that I have no interest in this matter at all. You call him as a witness, if you want to, and put him on the stand and ask him whatever questions you want to, and if the other side wants to object, why, the Court will rule.

CARL DONAUGH

The Government rests, your Honor.

(Transition: Min exits. Bernard exits with both defense stools; Donough exits with his stool; Judge exits with music stand; Burdell moves witness stool to center stage and exits with his stool and other music stand. Narrators to front of stage.)

NARRATOR 1

Although the Government elected not to test Judge Fee's patience with its "racial characteristics" argument, it would press the argument in later proceedings.

(During following, DEWITT enters.)

NARRATOR 2

In 1943, General John DeWitt issued his final report on the "Japanese Evacuation from the West Coast." As head of Western Defense Command, DeWitt was the officer in charge of the relocation "program," and his assertions became an important part of the Government's "military necessity" argument. In his report, DeWitt wrote he had...

DEWITT

"...no alternative but to conclude that the Japanese constituted a potentially dangerous element. There were hundreds of reports nightly of signal lights visible from the coast, and of intercepts of unidentified radio transmissions. The problem required an immediate solution."

(Dewitt exits.)

NARRATOR 1

Months later, two Justice Department lawyers argued that the assertions were false. The Attorney General asked the FBI and FCC to investigate. They found no evidence that Japanese-Americans had been associated with any espionage or illicit signaling. In fact, there was not one single documented act of

espionage, sabotage, or fifth column activity committed by an American citizen of Japanese descent or by a resident Japanese alien on the West Coast.

NARRATOR 2

Still, the Government persisted in making its military necessity argument to the Supreme Court.

Scene 6: The Aftermath

NARRATOR 1

Yasui's trial began the morning of June 12, 1942, and ended the same day. Judge Fee reserved decision. Yasui was taken to the Portland Assembly Center, where other Japanese had been detained pending relocation. There he remained until September, when he was sent to the Minidoka Relocation Camp in Idaho.

NARRATOR 2

Minidoka was so new that there was no sewer system for most of the first year. Men and women used separate six-seater outhouses. The prisoners lived in rudimentary barracks in the barren desert amid sagebrush, rocks and rattlesnakes.

NARRATOR 1

Each barrack measured 20 feet by 120 feet and was divided into six housing units. The smallest measured about 10 feet by 20 feet and housed two to three people. The largest measured about 20 by 30 and housed six or more people.

NARRATOR 2

Each unit had a coal-burning potbellied stove, one drop light, no walls or privacy partitions, and no running water.

VIGNETTE 6: TRAIN TO THE CAMP

NARRATOR 1

Some five months after the trial, Yasui was returned to Portland for Judge Fee to announce his decision. On November 16, 1942, Judge Fee ruled that the curfew order, as applied to American citizens of Japanese descent, was unconstitutional.

NARRATOR 2

It was an empty victory, however, because Judge Fee then found that Yasui had renounced his American citizenship because he was a "propaganda agent" for Japan who chose "allegiance to the Emperor of Japan."

(Judge Fee at edge of stage)

JUDGE FEE

Will the defendant please rise?

(Yasui enters, stands centerstage.)

NARRATOR 1

Because the curfew order could be lawfully applied to aliens, and because Yasui had forfeited his American citizenship, Judge Fee declared him...

JUDGE FEE

Guilty.

(Judge Fee exits)

NARRATOR 2

On November 18, 1942, just two days later, Judge Fee imposed the maximum sentence permitted by law: a fine of \$5,000 and one year in prison.

NARRATOR 1

Yasui was placed in solitary confinement in a small, windowless cell for the next nine months.

(In the Portland reading, Yasui had memorized the following speech.)

MINORI YASUI

At first the guards would not let me out long enough to take a bath or to get a haircut or a shave. At the end of several months I was stinking dirty. My hair was growing long and shaggy, unkempt and tangled. My facial hair was growing in all directions, untrimmed. And my nails were growing so long they began to curl over themselves, both on my hands and feet. It was not until after Christmas that I was given permission to take a bath and get a haircut and shave, and that seemed like such a luxury then.

(He sits. During the following, JUSTICES enter, stand flanking Yasui, dissenters nearest him.)

NARRATOR 2

The Ninth Circuit certified the Yasui case directly to the Supreme Court. On June 21, 1943, the Supreme Court reversed Judge Fee on both of his conclusions. It held that Judge Fee had erred in finding that Yasui had renounced his American citizenship.

NARRATOR 1

But it also held that Judge Fee had erred in declaring the curfew order unconstitutional as applied to citizens. In other words, the Court ruled that the curfew order can be applied to American citizens of Japanese descent. Yasui's status as an American citizen was restored, but his conviction was upheld.

NARRATOR 2

That same day, the Supreme Court decided Hirabayashi. It accepted the Government's "military necessity" argument and even echoed some of the themes pursued by the Government and Judge Fee at the Yasui trial. In his opinion for the majority in Hirabayashi, Chief Justice Harlan F. Stone wrote:

(Justice Stone steps to center stage,
in front of Yasui.)

CHIEF JUSTICE STONE

In the critical days of March 1942, the danger to our war production by sabotage and espionage [was] obvious. Espionage by persons in sympathy with the Japanese Government had been found to have been particularly effective in the surprise attack on Pearl Harbor. At a time of threatened Japanese attack upon this country, the nature of our inhabitants' attachments to the Japanese enemy was consequently a matter of grave concern.

There is support for the view that social, economic and political conditions which have prevailed since the close of the last century, when the Japanese began to come to this country in substantial numbers, have intensified their solidarity and have in large measure prevented their assimilation as an integral part of the white population. In addition, large numbers of children of Japanese parentage are sent to Japanese language schools outside the regular hours of public schools. Some of these schools are generally believed to be sources of Japanese nationalistic propaganda, cultivating allegiance to Japan.

CHIEF JUSTICE STONE (cont'd)

We cannot reject as unfounded the judgment of the military authorities and of Congress that there were disloyal members of that population, whose number and strength could not be precisely and quickly ascertained. We cannot say that the war-making branches of the Government did not have ground for believing that in a critical hour such persons could not readily be isolated and separately dealt with, and constituted a menace to the national defense and safety.

The adoption by Government, in the crisis of war and of threatened invasion, of measures for the public safety, based upon the recognition of facts and circumstances which indicate that a group of one national extraction may menace that safety more than others, is not wholly beyond the limits of the Constitution.

(Returns to previous position.)

NARRATOR 1

A year and a half later, on December 18, 1944, the Supreme Court rejected Fred Korematsu's challenge to the military order excluding him from the West Coast. The six-member majority, which included Felix Frankfurter, William O. Douglas, and Hugo Black, again relied on the Government's military necessity argument. Justice Black wrote the majority decision:

(Black steps to center stage.)

JUSTICE BLACK

We uphold the exclusion order. In doing so, we are not unmindful of the hardships imposed by it upon a large group of American citizens. But hardships are a part of war, and war is an aggregation of hardships. All citizens alike, both in and out of uniform, feel the impact of war in greater or lesser measure. Citizenship has its responsibilities, as well as its privileges, and in time of war the burden is always heavier.

Korematsu was not excluded from the Military Area because of hostility to him or his race. He was excluded because we are at war with the Japanese Empire, because the properly constituted military authorities feared an invasion of our West Coast and felt constrained to take proper security measures, because they decided the military urgency of the situation demanded that all citizens of Japanese ancestry be segregated from the West Coast temporarily, and finally, because Congress, reposing its confidence in this time of war in our military leaders -- as inevitably it must -- determined that they should have the power to do just that.

(Black Returns to previous position.)

NARRATOR 1

Three justices wrote dissenting opinions, including Justices Frank Murphy and Robert Jackson:

(Murphy steps forward, not blocking Yasui.)

JUSTICE MURPHY

The exclusion of "all persons of Japanese ancestry, both alien and non-alien," from the Pacific Coast area on a plea of military necessity in the absence of martial law ought not to be approved. Such exclusion goes over "the very brink of constitutional power" and falls into the ugly abyss of racism.

I dissent. Racial discrimination in any form and in any degree has no justifiable part whatever in our democratic way of life. It is unattractive in any setting but it is utterly revolting among a free people who have embraced the principles set forth in the Constitution of the United States.

(Murphy returns to previous position.
Jackson steps forward, not blocking Yasui.)

JUSTICE JACKSON

Korematsu was born on our soil, of parents born in Japan. The Constitution makes him a citizen of the United States by nativity and a citizen of California by residence. No claim is made that he is not loyal to this country. Korematsu, however, has been convicted of an act not commonly a crime. It consists merely of being present in the state whereof he is a citizen, near the place where he was born, and where all his life he has lived.

A citizen's presence in the locality was made a crime only if his parents were of Japanese birth. Had Korematsu been one of four -- the others being, say, a German alien enemy, an Italian alien enemy, and a citizen of American-born ancestors, convicted of treason but out on parole -- only Korematsu's presence would have violated the order. The difference between their innocence and his crime would result, not from anything he did, said, or thought, different than they, but only in that he was born of different racial stock.

JUSTICE JACKSON (cont'd)

Now, if any fundamental assumption underlies our system, it is that guilt is personal and not inheritable. But here is an attempt to make an otherwise innocent act a crime merely because this prisoner is the son of parents as to whom he had no choice, and belongs to a race from which there is no way to resign. I would reverse the judgment . . .

(He returns to previous position.
The justices exit.)

VIGNETTE 7: HUMAN RIGHTS

NARRATOR 2

Yasui was released from Minidoka in 1944. After the war, he moved to Denver, Colorado, where he practiced law and worked in civil rights. In 1946, he married True Shibata.

NARRATOR 1

Yasui's conviction stood for more than forty years. In 1984, the federal court in Oregon granted Yasui's petition for a writ of coram nobis, vacating the conviction. Yasui had also asked for a declaration that the Government had engaged in misconduct and that Public Proclamation No. 3 -- the curfew order -- was unconstitutional. The court denied this relief.

NARRATOR 2

Undeterred, Yasui appealed to the Ninth Circuit. He did not believe that vacating the conviction was sufficient vindication.

NARRATOR 1

On November 12, 1986, while his appeal was pending, Minoru Yasui passed away. The Ninth Circuit granted the Government's application to dismiss the appeal as moot. Yasui's fight for justice had come to an end.

NARRATOR 2

Before he passed sentence in 1942, Judge Fee asked Yasui if he had anything to say. We give the last words to him:

(Yasui walks downstage center, speaks
direct to audience.)

MINORI YASUI

Your Honor -- if the Court please, I should like to say a few words. There is no intent to plead for leniency for myself or to request a mitigation of the punishment that is about to be inflicted upon me.

Despite the circumstances, I am compelled to pay tribute and give my unreserved respect to this honorable court for its clear-cut and courageous reaffirmation of the inviolability of the fundamental civil rights and liberties of an American citizen.

As an American citizen, it was for a clarification and the preservation of those rights that I undertook this case, confident that the American judiciary would zealously defend those rights, war or no war, to preserve the fundamental democratic doctrines of our nation and to perpetuate the eternal truths of America.

(At this point, members of cast begin to join him on stage, not all at once, but gradually at first then in greater numbers. They stand behind Yasui, forming a common bond and echoing the start of the play.)

My confidence has been justified and I feel the greatest satisfaction and patriotic uplift in the decision of this honorable court, for it is full of significance for every American, be he humble or mighty.

I say that I am glad, regardless of the personal consequences to me, because I believe in the future and in the ultimate destiny of America.

I have lived, believed, worked and aspired as an American. With due respect to this honorable court, in all good conscience, I can say that I have never, and will never, voluntarily relinquish my American citizenship.

The decision of this honorable court to the contrary notwithstanding, I am an American citizen, who is not only proud of that fact, but who is willing to defend that right.

For I would a thousand times prefer to die on a battlefield as an American soldier in defense of freedom and democracy, for the principles which I believe, rather than to live in relative comfort as an interned alien Jap.

MINORI YASUI (cont'd)

The treacherous attack on Pearl Harbor, the bombing of Manila, the aggressor policies of the war lords of Japan are just as reprehensible to me as to any American citizen.

If America were invaded today, I and 70,000 other loyal American citizens of Japanese ancestry would be willing, eager, to lay down our lives in the streets, down in the gutters, to defend our homes, our country, and our liberties!

(On the words "...70,000 other loyal Americans..." a few cast members begin speaking the line. A few words later, a few more, and so on, until the entire cast is speaking the words "...down in the gutters, to defend our homes, our country, and our liberties." The volume and force grow so that these final words become a pledge, a proud and determined call by all Americans for unity, dignity, and justice.)

(END OF PLAY)

Vignettes (Portland, OR production)

Vignette 1: Curfew (page 6)

HENRY

I was 15 years old. For me, the curfew cut short my activities with Nisei buddies in the neighborhood. We would watch the time until 8 p.m., when the curfew took effect. We were afraid of being arrested.

Vignette 2: Prejudice after Pearl Harbor (page 9)

HENRY

The weight of our ancestry became heavier after Pearl Harbor. So did the attitude of the press and politicians. When the FBI began the warrantless search of our private homes for contraband items, Japanese families trashed and threw away anything of Japanese origin -- newspapers and magazines, recordings of Japanese music, photographs and artistry related to Japan. We were afraid that such possessions could trigger an arrest by the FBI.

Vignette 3: Life in Japantown (page 19)

GEORGE

Most Japanese Americans lived in a part of Northwest Portland called "Japantown." This was a vibrant community with restaurants and hotels, general stores and markets, doctors and dentists, its own newspaper, a Japanese language school, many small businesses. Most of the Japanese families lived in their place of business or in their hotels. My father operated a hotel in Japantown as well as a fruit and vegetable market out on North Columbia Blvd. He met Min Yasui a number of times for consul and advice.

Vignette 4: Family separations (page 27)

GEORGE

During early 1942, Japanese and Japanese Americans lost their jobs, sold their homes. Families were separated, careers halted, college dreams forgotten. We salvaged what we could and packed what little we were allowed for the move to interment camps. Pulling up roots for parts unknown. Our family lost our hotel business and our fruit and vegetable market.

Vignette 5: Picking Apples in Hood River (page 29)

LINDSEY (age 6)

All kinds of people came to Hood River to pick apples.

Vignette 6: Train to the camp (page 39)

GEORGE

They put us on trains to take us to the camps. I was a child, but I remember MPs marching up and down the aisles. We were ordered to pull the shades down so we couldn't see where we were going. The only thing we knew was we were headed east. Didn't know what we'd find at the other end.

HENRY

Medical care was very poor at the internment camps. Doctors, nurses and technicians were in short supply. Medicine was scarce. My middle brother, Tom, developed tubercular meningitis and died at the Minidoka Internment Camp in May 1943. He was 18.

Vignette 7: Human rights (page 44)

HENRY

The Government of the U.S. had decided the fate of people of Japanese ancestry in the U.S. The culture of these people was to obey authority as imposed by the police, by the educators, by all authority. Therefore, there was very little incentive to protest the actions of the Government.

GEORGE

It was a time when human rights became selective. Today we talk about human rights, equal rights. At that time it was selective.

YOU - you can have equal rights.

YOU - you go to the internment camps.

In that dark period of history, that's how it actually was.