

April 17, 1942

MASAOKA:

The National J.A.C.L. headquarters is unalterably opposed to test cases to determine the constitutionality of military regulations at this time, declared Mike Masaoka, national secretary, in a general bulletin to all chapters in reference to the Minoru Yasui case in Oregon.

"We have reached this decision unanimously after examining all the facts in light of our national policy of 'the greatest good for the greatest number'."

Masaoka in his statement said: "We recognize that self-styled martyrs who are willing to be jailed in order that they might fight for the rights of citizenship, as many of them allege, captured the headlines and the imagination of many more persons than our seemingly indifferent stand.

"We realize that many Japanese and others who are interested in our welfare have condemned the JACL for its apparent lackadaisical attitude on the matter of defending the rights and privileges of American citizens with Japanese features.

"But we submit that a careful examination of all the facts with the view of doing the greatest good for the greatest number will justify our position on such matters as these.

YASUI:

The National JACL headquarters has announced their unalterable opposition to test cases at this time to determine the constitutionality and enforceability of military regulations. It is recognized that this national policy has been formulated with the sincere purpose of achieving the "greatest good for the greatest number."

However, it is submitted that whether or not such policy is actually conducive to the "greatest good for the greatest number" is nevertheless subject to question, and moreover, although the National can be convinced, thru legitimate means, that not only a substantial majority, but an overwhelming majority of the individual members, demand certain affirmative actions, that the National would be compelled to take such steps. If such effort is construed to be an usurpation of the prerogatives of National, then it is submitted that National Headquarters would be failing in its primary function of representing the organization. There is no attempt to usurp the functions of the National, but rather a sincere endeavor to supplement and augment the program of the National.

The notice given by National to "self-styled martyrs" seems unacceptably condescending. It is believed that National should be above such pettiness. There has never been any intention or motive to hold myself out as any such "self-styled martyrs" but rather the sincere conviction that the actions of this writer is for the preservation of certain fundamental rights of an American citizen, by the proper legal methods. The motive for such action has always been for the ultimate protection and preservation of the citizenship rights of not only the American citizen of Japanese ancestry, but also for every American citizen.

If the National is willing to sacrifice certain fundamental rights of citizenship establishing a precedent whereby those rights may be deprived of American citizens without protest, then is it not possibly contributing to the destruction of the very fundamental basis of this country? Surely, this country is fighting the tyrannies and dictatorships imposed by any one man or group of men. Surely, even the orders of those in command in the Western Defense Area is nevertheless subject to the Constitutional limitations of this government. It is still contended that we, American citizens of Japanese ancestry, are still an integral part of "we, the people", from whom such governmental leaders still derive their authority. We, as loyal American citizens, can do no less than to do our utmost to preserve and defend our Constitution, and the government which derives its just powers from the people. It is submitted that any American citizen worthy of being called such, would never quietly tolerate the destruction of the essential principles of our nation. If it be tyranny to impose unreasonable restrictions upon the people upon the arbitrary and discriminatory basis of race, then it is just as shameful to submit to such unreasonable restrictions.

There is no advocacy of mass violation of the orders of the duly constituted Army authorities, but rather a plea to the National that they reserve for us, upon the record, that we as American citizens have never given up our citizenship rights. There must be stated that the American citizen of Japanese ancestry have always contended that they are loyal, patriotic American citizens. The danger that some day in the future the statement that the Japanese-American thought so little of their citizenship that they sacrificed them without protest must be guarded against, and handled in such a manner that no such precedent can be established. In all that we do, and in all that we shall do in the future must be done with the paramount thought that we are Americans and that our protests are recorded in an American way.

So much for the general points involved. With regard to the specific ten points enumerated, there is still doubt in my mind, and undoubtedly in the minds of a great many people, American citizens of Japanese ancestry and American citizens of

Caucasian ancestry. I should like to present my own personal viewpoints in regard to these specific points:

MASAOKA:

1.--Our primary consideration as good Americans is the total war effort. Individuals and groups are not important when the life of a nation is at stake. We have been asked to evacuate from the Pacific Coast as a military measure designed to strengthen national defense. We will cooperate in the war effort.

YASUI:

1.--It is admitted that it is essential to make a total war effort to strengthen national defense. It is further admitted that the lives of individuals are not important when national interests are at stake. However, it is submitted that if in the prosecution of that war effort, the principles of democracy are destroyed, then indeed we shall be a nation winning the war and losing the peace. It was the Hitlerian theory that the end always justifies the means; in a democracy, such a theory cannot exist. In making that all-out effort, the orderly processes of democratic government must be followed, so that we shall in truth be a united nation against tyrannies and dictatorships of the world. If evacuation be predicated upon any other basis than race, then it might be acceptable as a contribution to national defense.

MASAOKA:

2.--As a national organization and as individuals, we have pledged our wholehearted cooperation to the President without qualifications or reservations in the winning of the war. We will not violate our pledge.

YASUI:

2.--We, as American citizens, have pledged ourselves to wholehearted cooperation with the President. That is admitted, and wholly approved. Equally important, we have taken an oath of allegiance to the United States of America, and to the principles for which that nation stands. We have pledged ourselves to preserve and to defend the Constitution of the United States, even as have our governmental representatives and leaders. The Army and the President derive their authority from that Constitution. Then, surely it cannot be argued that support to the president must be placed above or regarded as more sacred than our pledge to that fundamental document of human rights. It is submitted that in our efforts to preserve the Constitution, we shall be fulfilling our pledge of cooperation to the President. War or no war, it must be admitted that it is only human to err. If we feel that our President has erred, or if we feel that the Army has overstepped the bounds of its powers, then we must zealously guard those fundamental rights of citizenship. The United States Supreme Court has time and time again stated that the declaration of war does not abrogate those sacred rights.

MASAOKA:

3.--We have continually cooperated with the Federal Government on all regulations and orders in the hope that our cooperation would inspire a reciprocal cooperation on their part. Our hopes have been justified. We will continue our policy of cooperation.

YASUI:

3.--The National JACL is to be commended in its attitude of cooperation with the Federal government. Such policy should be continued. However, it is submitted that such cooperation must never go to such an extent as to be in derogation of certain fundamental rights. We, American citizens, are willing to have certain specified rights suspended for the duration of the emergency. But, we, as American citizens, must insist and maintain those certain democratic principles which relate to freedom and expression, the inalienable right to vote, the fundamental right to be regarded equally with other American citizens. When the Army or other governmental authorities place us in a less favorable position than that of an ENEMY alien, surely there is basis for protest and redress of our grievances.

MASAOKA:

4.--Gracious acceptance of all Army regulations and orders and cooperating with them to the fullest extent is our contribution to the national defense effort. It is the sacrifice which we have been called upon to make. Although our contribution may seem greater than most, it still remains that it must be our share in the program. We will make our contributions to our nation.

YASUI:

4.--Gracious acceptance of Army regulations to a certain point is necessary. However, if these regulations contravene the basic principles for which the patriots of this country have fought for and died, then surely such regulations are unacceptable. To reduce the principles of cooperation to an absurdity, if army regulations require every American citizen of Japanese ancestry to commit suicide to wipe out the disgrace of Pearl Harbor, would National advocate unquestioned obedience to such orders? We must contribute more to our nation than any other American citizens, but even so there is a limit beyond which an American citizen will not go. If we are willing to accept the position of prisoners of war, or perhaps as no longer free men and women, then possibly the position of National can be justified. But, as long as we contend that we are American citizens, even the actions of the military are still

5.--Public opinion is opposed to any measure which seems to be directed against the Army and its authority. Should we challenge their right to pass such regulations as the five-mile travel limit and the curfew restrictions, we might be damned as fifth columnists who are attempting to sabotage military plans and to embarrass the government at a time when a united front is essential.

We will not take any action which might be construed as an organized effort to sabotage Army measures which are designed for public safety.

YASUI:

5.--It is recognized that public opinion is opposed to the Japanese. We, as American citizens, must direct public opinion to the injustices being committed in the name of our government, and point out that our efforts to preserve the democratic forms of government are valuable contributions to our country. There is no attempt to create a divided front; rather, it is submitted that the segregation of the Japanese American in "internment camps" creates a tendency towards such division of objectives and feelings. The American public will come to regard the Japanese-American in the same category as the Japanese enemy aliens, in contravention of every principle of law and in derogation of our lawful status. Admittedly, no matter how right we are in our actions we are liable to censure and criticism. Surely, the American citizen who qualms before the possible criticism of unthinking people is certainly a poor American, when we remember the heroic words of American patriots who so gallantly fought for the freedom of this country.

MASAOKA:

6.--Even assuming that we should win a test case, which we doubt, we may be in the same position as the nation which wins a war and loses the peace. It will take so long for a case of this nature to run the gamut of the courts from the lowest to the highest that we will, in all probability, be evacuated out of this area before it is finally passed upon by the Supreme court.

YASUI:

6.--It has never been hoped that this test case would be decided in time to prevent evacuation. But, it has always been the paramount motive to make it a matter of record that an American citizen has thought enough of his citizenship to take every legal step to preserve that status. It is doubted whether the people would have resented the fact that an American citizen has appealed to the courts in order to preserve and protect those citizenship rights, not only for himself but for every American citizen. As for the advice that legal actions be left until after the war, it is believed that such action would be of no purpose. After the damage is done, then it is too late to insist upon our rights. It would be as practical as locking the door after the horse has been stolen.

MASAOKA: (continuation of 6.--) Even though we should win a legal victory, if the people at large resented our activities, it might have been better either to have lost or not to have attempted a contest. Too, if we should lose the case, which appears likely at this time, we have no further recoursés; the law has been settled and cannot be reversed.

It appears more sensible if all legal actions of this nature were left until after the war when public sentiments may have changed and suits may be initiated to recover for damages suffered. Even this latter step is a moot question at this time. We do not intend to attempt to win a case and lose goodwill.

MASAOKA:

7.--Attempts to slow up or to question military dictates may result in irritating those in charge so that they may retaliate by instituting stricter regulations. Whatever may be said against the procedure followed by the Army in conducting this evacuation is one thing, but no one can gainsay the statement they have been tolerant, fair and reasonable as possible in their treatment of this problem. We do not intend to force them to change their attitude in this matter.

YASUI:

7.--If the legitimate questioning of arbitrary rulings would irritate those in charge, so that they would impose more stringent rulings, then there would be even more cause to object. If we are to accept discriminatory rulings of Army which undoubtedly infringes upon the rights of the people, then we are contributing thereby to the disintegration of the democratic principles of government for which we are struggling to preserve. The Army has not been tolerant and reasonable in handling this problem unless we are willing to accept the designation of being more dangerous than an Italian or German enemy alien. If that fact be unacceptable, then it is submitted that the rulings of the Army has been arbitrary, unfair and unreasonable, as far as it relates to the 8:00 o'clock curfew, restrictions on travel, and compulsory evacuation is concerned.

MASAOKA:

8.--If our recollection serves correctly, Attorney General Biddle, one of the greatest defenders of civil rights in this country, declared that there was little chance that the courts would go beyond the military should any person desire to challenge the legality of the President's proclamation which gave the Secretary of War and his military commanders the power to designate zones in which any and all persons

might be excluded and to facilitate the removal of the undesirable persons by adopting whatever measures were deemed necessary and proper. We trust that the opinion of the Attorney General represents the majority of the jurists' opinion on this subject.

YASUI:

8.--Attorney General Biddle has stated that even the enemy alien should be treated with the greatest consideration and every respect. However, the manner in which such consideration is being demonstrated does not coincide with such statement. The fundamental law of our land sets forth that we have formed this government to ".... secure the blessings of liberty to ourselves and our posterity." If we yield at this time, then we are not only sacrificing our own liberty, but the liberty and blessings of freedom for our posterity. The basic principle upon which this country has been founded is that every man is created free and equal. When the regulations of the Army violates those principles, then it is submitted that such regulations should be modified or revoked, so as to be consistent with those principles. I feel certain that if the Attorney-General be presented with the direct question of whether or not the Army can violate the fundamental laws of this country to the detriment of American citizens his opinion would confirm my stand that such action would be unconstitutional and void. Whether the curfew law or the evacuation program is in fact contradictory to the rights of American citizens is still a question to be decided in the Courts of the United States.

MASAOKA:

9.--The American Civil Liberties union, after polling its members as to whether they should make a test case of the Army orders for evacuation, decided against it.

When the one group of all groups which has most vigorously and consistently battled against great odds for civil liberties in this nation concedes that a court test of legality should not be attempted, we are ready to accept their verdict.

If the general orders should not be challenged, then it seems only logical that the supplementary orders necessary to effect the evacuation should also not be contested. We are not disposed to question the wisdom of the American Civil Liberties union on questions of this kind.

YASUI:

9.--With regard to the particular test case in question, an offer of assistance from the American Civil Liberties Union was received and refused. Moreover, it is noted that the Union has recently written to the office of the Secretary of War stating their objections to the discriminatory and arbitrary rulings of the evacuation program. Surely, if a group of people, not directly concerned with such program and not affected by the rulings, take such an interest in this matter, how much more should be concerned with the regulations which infringe upon our own rights. There is certainly nothing subversive or disloyal in maintaining those rights which are inherent within every American citizen.

MASAOKA:

10.--Unfavorable publicity often results from attempting such test cases. The Yasui case is one in point. Editorial comments as well as news reports did not concentrate their attention on the constitutionality of the regulations involved but rather featured the fact that the subject for the test was a former paid propagandist for the Japanese government.

Moreover, from letters sent to the various public opinion sections of the newspapers, we can gather that the majority of those who wrote in were very vicious of their condemnation not only of Yasui but also of all Japanese. This incident just gave them one more excuse for publicity branding us as treacherous and dangerous.

One letter, printed in the San Francisco Examiner, for example, declared that "all Japanese-Americans should be discharged from the Army because Yasui, a reserve lieutenant, had deliberately violated regulations". The letter went on to say that "Yasui took advantage of an American education, going to the University of Oregon, and paid that back with the usual Japanese treachery."

Because our motives are too often misunderstood and unfavorable publicity often results which is injurious not only to the person involved but also to all Japanese in America, we believe that test cases should not be made. We do not intend to create any unnecessary excuses for denouncing the Japanese as disloyal and dangerous.

YASUI:

10.--Unfavorable publicity unquestionably arises out of cases which involve national interests. However, it is submitted that the National should take steps to correct erroneous views that are held by the general public. Whenever an unfavorable article or letter appears in the newspapers, such articles or letters should be forthwith answered, not so much with the intent of convincing such persons but rather to present the other viewpoint, so as to give such persons something vital to consider in their arguments. When it is pointed out that the efforts of the Japanese-Americans are constructively intended for the preservation of the principles of this government, perhaps a more sympathetic attitude can be created.

MASAOKA: (conclusion)

Lastly, we are not giving up our rights as citizens by cooperating with the government in the evacuation program. We may be temporarily suspending or sacrificing some of our privileges and rights of citizenship in the greater aim of protecting them for all time to come and to defeat these powers which seek to destroy them.

When the war against the Axis is won, we are confident that all our rights and privileges will be returned to us a hundredfold because we cooperated in the winning of the war. We will consistently adhere to this announced principle of cooperation.

In times like these, let us remember that it is much easier to be a martyr than it is to be a quiet, self-suffering, good citizen who is vitally interested in the winning of the war.

To win this time will require sacrifices beyond those demanded in the First World War, and the sacrifices which we are called upon to make are even greater than those demanded of the majority.

Because our sacrifice is greater, let us trust that our reward in that greater America which is to come will be that much the greater.

YASUI: (conclusion)

In conclusion, these points should be kept in mind. The attitude of this writer is not to oppose the reasonable and justifiable regulations of the United States Army. There is no attempt to secure any favored rulings for the Japanese-American, but rather to secure for ourselves and our people a fair, unprejudiced, impartial treatment, comparable to the treatment being accorded other people of this country. It is attempted to convince National that the great majority of the Japanese-Americans is not in sympathy with the apathetic attitude of the National JACL, and by legitimate means to call attention of our leaders to such sentiments. It is hoped that National will take immediate and affirmative steps to preserve for us the essential attributes of citizenship, so that in the future we cannot and will not be regarded as persons of no citizenship, to be cared for on military reservations or to be shipped back to a country to which we owe no loyalty.

There are three fundamental issues at stake: First, are the American citizens of Japanese ancestry to be regarded in a less favorable position than enemy aliens? Second, is the evacuation of such American citizens in "internment centers" whereby potential human energies and manpower is to be impounded and not fully utilized, actually designed for the strengthening of national defense, or is it based upon the distinction of race? Third, is the future of the American citizen of Japanese ancestry to be jeopardized by the establishment of the precedent that the Japanese Americans did not hold their citizenship rights in high enough esteem that it was not worth the effort to preserve?

The policy advocated is to follow the legitimate processes of government, by appealing to the courts, by sending our petitions for a redress of grievances to the proper authorities, by a reservation of our rights with the proper agencies, and by publicising our particular convictions and the principles for which we stand to the public at large. It is submitted that such methods are the only American way to respond in the face of the present emergency. It is sincerely hoped that the motives of this writer will not be interpreted as an effort to undermine the efforts of our leaders, but rather as an effort to contribute to the preservation of the American way of life. It is hoped that this action is in reality a substantial contribution to a greater America, where every man is free and equal, and may hold high his head among fellow Americans.

Respectfully submitted

MINORU YASUI