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IVA TOGURI (d'AQUINO): VICTIM OF A LEGEND

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Iva Toguri (d'Aquino): Victim of a Legend. September, 1975.

ERRATA SHEET

Page 6, line 12: for 'confined' read 'confided'.

Page 6, line 16: for 'war' read 'was'.

Page 16, line 3: for 'Mildred Gillars' read 'Robert H. Best and Douglas Chandler'.

INTRODUCTION

Iva Toguri is a victim of a World War II fantasy — a powerful and persistent legend that continues to plague her today, some 30 years later. Trapped in Japan as a young American woman during the war years, she survived harassment by the Japanese government only to be consumed by a fictitious image created by American soldiers. She became a casualty of the prejudices, stereotypes, and social mores of that era, and was convicted of treason in 1949. After her release from prison, the United States government continued to persecute her with deportation threats and property confiscation. She firmly proclaims her innocence, and a renewed effort is under way to clear her name and restore her constitutional rights. This booklet will describe (1) how a real person was stranded in Japan, (2) how a legend was created, and finally (3) how the real person became tyrannized by that legend.

IVA IKUKO TOGURI

Early Years (1916-40)

Iva Ikuko Toguri was born on July 4, 1916, in Los Angeles, California, the first daughter of Jun and Fumi Toguri. Her father was born in Japan but naturalized in Canada, and her mother was a Japanese citizen: United States law prohibited persons of Asian ancestry (including citizens of Canada) from becoming naturalized, so neither parent had an opportunity to gain American citizenship. (This prohibition was not repealed for Japanese until 1952.) Three other children were born to the Toguris: Fred, June, and Inez. Two months after her birth, Iva Toguri's father entered her name in the genealogical registry at the family's ancestral village in Japan. This procedure, customary at the time, would have given her citizenship rights in Japan, but her father cancelled the registration in 1932. Her father did not register her with the Canadian government, so she lost any eligibility for citizenship rights in Canada. Thus, by the time she was 16 years of age, Iva Toguri was a citizen only of the United States.

The Toguri family lived in predominantly white neighborhoods in various parts of Southern California: Los Angeles, Calexico, San Diego, and Compton. English was the primary language spoken at home, the family belonged to the Methodist Church and Iva Toguri's friends were mostly Caucasian. She attended public schools, music and business schools, Compton Junior College, and the University of California at Los Angeles (UCLA). She became an accomplished pianist, was a skilled typist, and was graduated from UCLA with a bachelor's degree in zoology in June 1941. During her childhood and student years, she had very little contact with Japanese culture. She had many talents, but her very "all-American" upbringing ill-prepared her for the unexpected ordeals ahead.

Stranded in Japan (1941)

Soon after her college graduation, her family learned her maternal aunt in Japan was seriously ill with diabetes and high blood pressure, and possibly on the verge of death. Because her mother was also bedridden with the same ailments, Iva Toguri was selected as the family's representative to go to Japan and help care for her aunt. Because the matter was urgent, she had to leave promptly. The only available transportation was by ship, which took about two weeks (airline passenger service to Japan was not inaugurated until 1947). A passport took too long to obtain, so she secured a State Department Certificate of Identification and hurriedly sailed for Japan on July 5, 1941, one day after her 25th birthday. She arrived in Yokohama on July 24 with just enough money to buy a ticket back to the United States and with practically no knowledge of the Japanese language or customs. Her uncle, Hajime Hattori, met her at the pier and took her to his home. After several weeks of getting acquainted with relatives she had never met before, she applied for an American passport at the United States Consulate in Tokyo in August. She presented her birth certificate and State Department Certificate of Identification, but any person of Asian ancestry claiming U.S. citizenship faced considerable difficulties because this was during the period of total prohibition of Asian immigration under the provisions of the Immigration Act of 1924.

She had not received her passport by October (she later learned her application had been ignored), and she became nervous over the increasing war rumors in Japan. She contacted her father to ask if she should return, but her father reassured her and told her to stay longer for the sake of her sick aunt. Like most other Americans, her father underestimated the ominous war signs during 1940-41: for example, Japan was already at war in Asia and had signed a military alliance with Germany; the United States froze Japanese assets and imposed a total embargo on exports to Japan; Britain and the Dutch East Indies (Indonesia) joined the embargo and effectively cut off Japan's oil supply; U.S. Secretary of State Cordell Hull refused to negotiate reopening oil supplies until Japan ceased aggression and withdrew troops from China, Indochina, and Manchuria; Japan's Prime Minister Fumimaro Konoye (leader of the moderate faction) was forced to resign and General Hideki Tojo (leader of the pro-war faction) took over as Prime Minister. Her father finally realized the danger and sent an urgent cable on December 1 instructing her to board a ship leaving for the United States the next day. She frantically tried to get aboard, but Japanese authorities refused port clearance because she did not have a passport. It actually made no difference because that Japanese-owned ship was in mid-Pacific when Admiral Isoroku Yamamoto's Task Force

attacked Hawaii, and the ship was ordered to return to Japan.

One day after the outbreak of hostilities, the Japanese Army Thought-Control Police (Kempeitai) interrogated Iva Toguri and demanded that she renounce her American citizenship and apply for Japanese citizenship — or else life in Japan would be “very, very inconvenient.” She flatly refused, stating she was raised as an American and could never become a Japanese citizen. Iva Toguri soon learned the meaning of the Kempeitai’s threats: she was classified as an enemy alien, her movements were restricted, she was denied food rations, and she was constantly harassed by the Internal Security Police and Kempeitai. Ironically, if she had succeeded in returning to the United States, she would have shared the fate of 110,000 other persons of Japanese ancestry (two-thirds of whom were American citizens) living on the West Coast (but not Hawaii) who were classified as the “enemy race,” restricted by prohibited zones and a racial curfew, intimidated by the police and federal agents, and eventually imprisoned en masse. Iva Toguri’s own parents, brother, and sisters were incarcerated at Gila River, Arizona. (The U.S. government called them “Relocation Centers” but the facilities were actually mass detention camps, complete with barbed wire and guard towers.)

In February 1942, she learned that the neutral Swiss legation representing the United States was accepting applications from American citizens who wished to repatriate. A Japan-United States agreement allowed repatriation through neutral nations. Iva Toguri applied for repatriation, but without a passport she was informed her citizenship must be confirmed by the American consulate. On April 4, 1942, the American consular staff, themselves awaiting repatriation, belatedly processed her August 1941 passport application by attaching a notation stating that her U.S. citizenship was “not proved.” Again, the lack of a passport thwarted her attempt to leave.

Abandonment and Survival (1942-43)

Because of her outspoken support for the United States, inability to speak Japanese well, and frequent visits from the Kempeitai, neighbors taunted her aunt and uncle for harboring an enemy. Life became so intolerable that in June 1942 the Hattoris told her to live elsewhere. From that time on, Iva Toguri was on her own, and she very quickly used up what little money she had. Without an income and without a food ration card, she faced the possibility of starvation. She asked Japanese authorities to imprison her with other American nationals, but was refused. Job hunting was difficult because the only marketable skills she possessed were her abilities in the English language. First, she worked for a pittance (about \$5 per month) as a typist and piano teacher at the Matsumiya English Language School. Later that June, she found a part-time job typing and monitoring English language short-wave broadcasts at the Domei News Agency, where she met Felipe J. d’Aquino, a Portuguese citizen of Japanese ancestry. Felipe d’Aquino was working as a linotypist at Domei, and they became good friends (and were later married).

In September 1942, she received a notice from the Swiss legation announcing a second and final repatriation ship. Since most of the diplomats and other supposedly important Americans had already left on the first ship, her chances of getting aboard were good if she could raise the necessary \$425 passage. Unfortunately, she had no savings (her \$20 per month salary at Domei was used for bare survival), had been repudiated by her relatives in Japan, and had no means for contacting her parents in America. She could not raise the passage money, and she cancelled her application.

She was unable to purchase much food on her low wages and by June 1943 she was suffering from malnutrition and beriberi. Nursed back to health by her friend d’Aquino, she regained enough strength by August to take a second part-time job as a typist in the business office of Radio Tokyo. There she met three prisoners of war (POWs): Major Charles Cousens, an Australian captured in Singapore; Captain Wallace Ince, an American captured in Corregidor; and Lieutenant Norman Reyes, a Pilipino (spelling preferred by Pilipino Americans) captured in Bataan. The three men had been experienced radio broadcasters prior to their capture, and they had been assigned to work on the English language “Zero Hour” since March of that year. Iva Toguri became friendly with the POW broadcasters. She spent much of her own meager funds to purchase food, medicine and tobacco, and at considerable risk to herself, secretly gave the supplies to the POW broadcasters and other prisoners at the Bunka POW camp in Tokyo.

In November, Japanese authorities decided to add a female voice to the "Zero Hour" program. The POWs persuaded the Japanese to select Iva Toguri. The POWs needed a trustworthy companion because they were covertly burlesquing the Japanese program intent. When informed of her new duties, Iva Toguri refused. She was then ordered to broadcast by Japanese authorities and was reminded she had "no choice" in the matter since she was an enemy alien without any rights. Refusal in militaristic wartime Japan usually resulted in severe punishment, including starvation, beatings, and even execution. Although she was not explicitly threatened with bodily harm, she was well aware of what happened to others who had refused and was conscious of the non-direct manner in which the Japanese spoke. Moreover, Major Cousens took her aside, confined their scheme, and assured her that she would not harm and might possibly help the American war effort. Cousens' confidence won her over, and she read her first POW-written script over the air on November 13, 1943.

In December 1943, she was forced to quit Domei because of constant arguments with other employees over her pro-American statements, and because her friend d'Aquino got into a fistfight defending her position.

"Orphan Ann" (1944-45)

Initially, she called herself "Ann" (short for announcer) on the air, but later switched to "Orphan Ann" because she identified with the comic strip character of "Little Orphan Annie." It was a bitter-sweet, self-mocking name for the young woman who felt lonely and forsaken, but who also thought she was resisting the enemy while waiting to be rescued from her predicament. In January 1944, she went to the Danish legation as a full-time typist, and on most evenings reported to Radio Tokyo to host a program of music, humor, nostalgia, and news. She read the scripts exactly as written by her POW compatriots, and her program was always aired from 6 to 7 p.m. Tokyo time. However, the female voice on "Zero Hour" was not always that of Iva Toguri. She refused to work on Sundays and American holidays, and took frequent sick leaves. During her absences, she was replaced by one of the 13 other English-speaking women announcers employed by Radio Tokyo: six Japanese Americans, one white American, one Japanese Canadian, one Japanese Briton, one Swiss, one Japanese, one with Japanese surname of unknown nationality, and one with European surname of unknown nationality. Radio Tokyo had many other English language programs broadcast at different hours of the day, and each program had its own staff. Throughout her stay at Radio Tokyo

Iva Toguri continued to risk her own safety by clandestinely providing American POWs with extra food, clothing, and blankets, plus scarce vitamins and medicine.

On April 19, 1945, she married Felipe d'Aquino and converted to Catholicism. She became eligible for Portuguese citizenship under the laws of Portugal, but she chose to retain her American citizenship under the laws of the United States. (The Cable Act, as amended in 1931, extended the right to retain U.S. citizenship to American women who married non-American men of Asian ancestry.)

During the war years, Iva Toguri's problems were similar to an estimated 10,000 other young Japanese American men and women stranded in Japan. Some, like her, were in Japan to visit relatives, but most were there to attend Japanese schools or work for Japanese firms. Due to severe employment discrimination in the United States, it was not unusual for parents to ensure an alternative means of livelihood for their children by sending them to Japan for part of their education. Most Japanese American college graduates found that the only means of gaining employment commensurate with their education was to work in Japan. (Two such American college graduates working in Japan later became the key witnesses against Iva Toguri.) All of the Japanese Americans were placed under intense pressure to change their citizenship. Young men were drafted into the army, while others were forced to work for the government or war industries. With only partial education in Japan, most Japanese Americans could not compete with the natives for regular jobs and had to resort to their English language skills as a means of survival. When the war ended, the U.S. State Department proclaimed that Japanese Americans who served in the Japanese Army, worked for the Japanese government, or voted in a Japanese election had lost their American citizenship in accordance with the Nationality Act of 1940. If this was true, Iva Toguri was no longer a citizen of the United States, and not subject to the charge of treason. (Later, in the 1950s, court decisions restored citizenship to approximately 5,000 Japanese Americans affected by this State Department ruling.)

THE LEGEND OF "TOKYO ROSE"

A Soldier's Fantasy

Unknown to Iva Toguri, or anyone else in Japan, American soldiers invented the term "Tokyo Rose" and applied it to any and all female broadcasters heard on Japanese radio stations. The term "Tokyo Rose" was used as early as December 1941. Part of the experience of fighting in Asia and the Pacific Islands consisted of listening to a woman with a seductive voice, who played the latest American popular music, announced American troop movements, and read the latest war news. The soldiers knew the programs were supposed to be propaganda, but they felt compelled to tune in anyway and spread the word about the broadcasts. Soldiers laughed at the obvious propaganda ploys and enjoyed the recently issued American records, which they could not hear on American shortwave broadcasts. The legend differs according to the listener: some said she spoke with a British accent, others attributed a Japanese or Asian accent, while still others insisted she had an American accent and used American slang. The listeners even differed on the languages used: some said English was the only language used, but others claimed Japanese, Chinese, and other Asian languages were intermixed.

The lonely soldiers undoubtedly internalized and romanticized what they actually heard, and there was considerable speculation about her physical appearance. "Tokyo Rose" existed more in the imagination than in fact, and the image was a fairly pleasant one. In 1944, the Alaskan Defense Command issued a bulletin instructing officers to urge their men to listen to the "Tokyo Rose" broadcasts because they were free from propaganda and were "the strongest factor for building morale of our troops in the Alaskan Chain." Just before the war ended, Captain T.J. O'Brien, Director of Welfare for the United States Navy, issued a citation to "Tokyo Rose" for "meritorious service contributing greatly to the morale of U.S. Armed Forces in the Pacific . . . by persistently entertaining them during those long nights in fox-holes and on aboard ship, by bringing them excellent state-side music, laughter and news about home." The citation was made in jest, but it also reflected the fact that American soldiers enjoyed the broadcasts. Also, a survey conducted by a graduate student at Pennsylvania State University in 1968 found that 93 percent of veterans of the Pacific war thought the "Tokyo Rose" programs did not have a demoralizing effect, and 84 percent considered the programs to be successful as entertainment.

VICTIM OF A LEGEND

Pre-World War II Stereotypes

Historic stereotypes about Japanese Americans in general, and Asian women specifically, created an atmosphere whereby war-weary soldiers and civilians could easily transfer their fantasies and hostilities to a real person. Negative images of Japanese American originated in the 1890s, when the first sizable number of immigrants from Japan arrived in the United States and became targets for anti-Asian prejudice previously directed against Chinese pioneers. The anti-Japanese feelings were fueled by Japan's empire building in Asia (Taiwan in 1895, Sakhalin in 1905, Korea in 1910, Manchuria in 1931), and the newspapers were full of stories implying Japanese Americans were the outpost for an ever expanding Japanese empire. The newspapers depicted Japanese Americans as being unassimilable and incapable of loyalty to the United States because somehow their ancestral ties to Japan would predominate. This theme was later expressed by Lt. General John L. DeWitt, military chief of the Western Defense Command: "A Jap's a Jap. It makes no difference whether the Jap is a citizen or not. He's still a Jap and can't change." The anti-Japanese elements were very influential and succeeded in passing numerous state and federal laws discriminating against Japanese and Japanese Americans. By 1942, the negative stereotypes were so well implanted in the public's consciousness that there was practically no protest over the mass incarceration of American citizens based solely on a presumption of disloyalty.

The image of the seductive and sinister Asian woman emerged during the height of anti-Chinese agitations during the 1880s, and became particularly prominent when Japan became a military power in the 1930s. Hollywood movies and newspaper cartoons confused and combined Chinese and Japanese images into a general "oriental" stereotype, and Asian women were portrayed as exotic, sexy, and smart, but always determined to corrupt the morality of white American men.

Post World War II Animositities

Public distrust of Japanese Americans did not subside after the end of the war. The well-publicized heroism of the Japanese American soldiers on the European Front (442nd Regimental Combat Team) helped but did not entirely ameliorate animosity against Japanese Americans. In fact, more violence was committed against Japanese Americans returning to California in 1945-46

than during the aftermath of Pearl Harbor in 1941-42. In August 1946, the National Opinion Research Center reported two-thirds of all Americans still believed Japanese Americans had spied for Japan, and only 13 percent believed they had no part in espionage activities for the enemy. Newspapers continued to reinforce distorted images of Asian women through such comic strips as "Steve Canyon" and "Terry and the Pirates."

Immigrant Japanese were still prohibited by law from becoming citizens, from owning land, and from engaging in occupations requiring licenses. New immigration from Japan was banned, and 4,724 persons of Japanese ancestry were deported during 1945-46 (1,659 immigrant repatriates, 1,949 children accompanying parents, 1,116 renunciant expatriates). The bitterness and pressures during the mass incarceration coerced 5,766 Japanese Americans into renouncing their American citizenship, but nearly all filed lawsuits after the war to regain their birthright. (Court decisions between 1945 and 1968 restored citizenship to nearly all renunciants, including those who expatriated.) American citizens of Japanese ancestry were still prevented from owning homes by restrictive covenants, denied employment in most fields, hindered in social mobility by antisecregation laws, and even dead soldiers were refused burial in home-town cemeteries. Japanese Americans embarked on a campaign to overcome these injustices, but the struggle was long and hard. The powerful anti-Japanese elements in California had not lost any of their vigor, so every issue created a prolonged court battle, bitter legislative campaign, or heated public debate.

One of the important postwar issues was the question of statehood for Hawaii. The major obstacle hindering statehood was the fact that one-third of the population of Hawaii was of Japanese ancestry. Mainland Caucasians feared Japanese Americans might control the politics of the Islands, and were unwilling to accept the possibility of a Japanese American being elected to Congress. (The racial prejudices were strong enough to prevent Hawaii statehood until 1959.) All of these issues were being contested during the 1945-49 period; they carried great import for the well-being of every Japanese American, and in particular for Iva Toguri, who was in Japan and unaware of the circumstances closing in around her.

VICTIM OF A LEGEND

Detention and Release (1945-46)

By the end of the war, the legend of "Tokyo Rose" had become so exaggerated that "Tokyo Rose" was probably the third most well known Japanese name to Americans (after Emperor Hirohito and Prime Minister Hideki Tojo). American journalists landed in Japan a few days before the formal surrender was signed, and began a frantic and competitive search for the legendary "Tokyo Rose." Harry Brundidge of *Cosmopolitan Magazine* and Clark Lee of International News Service hitched a ride to Tokyo with an advance party on August 31 and contacted Leslie Nakashima, a Domei News Agency writer whom they knew from before the war. Nakashima told the Americans that there was no person named "Tokyo Rose" and there were five or six women at Radio Tokyo who might fit their description. But the legend could not be deflated so easily. Undaunted, Brundidge and Lee asked Nakashima to locate any "Tokyo Rose," and Nakashima, who had a pre-war obligation to repay, accommodated them by introducing Iva Toguri.

Brundidge and Lee, in army uniforms and armed, met Iva Toguri on September 1 and offered her \$2,000 for an exclusive story to be published in *Cosmopolitan*. That sum was a fortune for anyone who had lived through the war in Japan, and she agreed to their interview. However, when Brundidge cabled *Cosmopolitan* editors about his "scoop," the editors rejected his article stating they would not glorify a traitor and refused to pay the \$2,000. In the meanwhile, other correspondents were filing stories implicating numerous other women, and it soon became obvious that no single individual was "Tokyo Rose." But during this hectic and confusing period, Iva Toguri gained the unfortunate distinction of receiving the most publicity. She considered herself a heroine of sorts, and had no reluctance about granting interviews and signing autographs, not realizing the consequences would become so serious.

Her triumph was quickly shattered for she alone became the scapegoat. A few days after the Brundidge-Lee interview she was arrested, but inexplicably released the next day. The first arrest was probably engineered by Brundidge and Lee to prevent other journalists from interviewing her. She was rearrested on October 17 and held at a Yokohama prison for one month; then she was transferred to Sugamo Prison in Tokyo, where she remained for another eleven months. (Sugamo was the prison for Japanese leaders accused of war crimes. Prime Minister Tojo and six other high officials were executed there in 1948.) During her 12 months imprisonment, she was never informed of the charges against her, was denied legal counsel, was denied speedy trial, and was prohibited from sending or receiving mail (see Appendix A). She was

held totally incommunicado for over two months until a Christmas visit from her husband was allowed. Thereafter, the only person permitted to visit was her husband — for only one twenty-minute session per month. After an exhaustive investigation by the Army and Federal Bureau of Investigation (FBI), the Justice Department concluded there was insufficient evidence to bring charges, and released her on October 25, 1946. During her confinement, government agents lost or destroyed their phonograph records and written transcripts of the alleged "Tokyo Rose" broadcasts. The case appeared closed and her life temporarily returned to normal. She settled in Tokyo with her husband, and became pregnant in 1947.

Going Home (1947-48)

Iva Toguri learned that her mother died in 1942 while incarcerated at Gila River, Arizona, and that her father, brother, and sisters had moved to Chicago. She wanted her child born in the United States (to guarantee her child acquire American citizenship), and she had a great desire to see her family. She applied once again for that long-elusive passport. She became one of the thousands of Japanese Americans stranded in Japan who sought to return home, but faced lengthy investigations concerning their activities. The American Consular officials told her she was "stateless" due to her marriage to a Portuguese citizen, but that she could re-establish her American citizenship if her passport application was approved. (Consular officials must have been unaware of the amended Cable Act.)

The State Department was caught in a bind: if she was permitted to return, there might be a public uproar; but there was no legal means to prevent her entry because she was a native-born citizen cleared by the Army and the FBI. Moreover, the Justice Department was in the embarrassing position of having lost or destroyed evidence which originally cleared her. Hence, the government issued a statement to the press that "Tokyo Rose" had applied to return to the United States. The public outcry was immediate and impassioned. Radio commentator Walter Winchell vigorously campaigned against her return (radio in the 1940s was a powerful medium). The American Legion and Native Sons and Daughters of the Golden West, with a long history of anti-Asianism, issued strong protests. The Los Angeles City Council passed a resolution opposing her return on the curious basis she might adversely affect "loyal" Japanese Americans. Possibly because many Caucasians could not envision her as an American citizen, no one particularly demanded her prosecution for treason. The traditional goals of anti-Japanese groups

were for removal and exclusion, not prosecution under due process. The protests delayed her return, and in January 1948 her baby died at birth.

Many newspapers, including the **New York Times**, published an appeal for anyone able to identify Iva Toguri as "Tokyo Rose" to report to the FBI. Claiming to have a "confession," Brundidge dug up his old field notes from the 1945 interview and delivered them to his friend, FBI Director J. Edgar Hoover. Attorney General Tom Clark rejected the notes as improper evidence, but Brundidge was not easily put off. Brundidge demanded and received a government-paid trip to Japan to get his notes signed by Iva Toguri. She was summoned by the Occupation Army to a meeting with Brundidge and John B. Hogan, a Justice Department attorney. She had been reading the American newspapers and was aware of the controversy surrounding her application to return. She was tired of the uncertainty, wanted desperately to see her family, and had come to the conclusion that if a trial was the only way to clear herself once and for all, she wanted to get on with it. Without legal counsel at this critical moment, she signed Brundidge's notes.

Presumably on the basis of the Brundidge notes, Iva Toguri was arrested once again on August 26, 1948 in Tokyo and charged with treason. While the government had earlier denied that she was a citizen, they now used the same birth certificate in her passport application as proof of her citizenship. According to law, when an alleged treason takes place abroad, the trial must take place at the first location where the accused is returned to American territory. Attorney General Clark publicly admitted she could not receive a fair trial in California. On the other hand, Hawaii might be too tolerant, so Clark initially announced she would be brought directly to the East Coast. It was a difficult, but not impossible, logistical task; and elaborate plans were made to transport her by air through Canada or Mexico. For an unexplained reason, Clark changed his mind and ordered her brought to San Francisco — a city considered to be a center of anti-Japanese prejudice. The ship carrying Iva Toguri purposely bypassed Hawaii and docked in San Francisco on September 25, 1948. She was escorted off the ship by numerous FBI agents and brought before Federal Commissioner St. J. Fox, who read a complaint charging her with treasonable activities while in Japan. She was then taken to the old county jail near Chinatown's Portsmouth Square. She was finally home in America, albeit behind bars, and she saw her family for the first time since she left home in 1941. The Toguri family searched for a lawyer to defend her, but most attorneys turned down the case because the family was financially impoverished. Eventually, Wayne M. Collins, Theodore Tamba

and George Olshausen volunteered to represent her without fee. (Collins, a strong advocate of civil liberties, also was a non-paid volunteer attorney for Fred Korematsu's constitutional challenge to the wartime incarceration, the renunciants' fight to regain American citizenship, and the Japanese Peruvians' battle to prevent deportation to Japan. Collins took these controversial cases when the National American Civil Liberties Union and National Japanese American Citizens League declined to act.) She was, at last, accorded the right to legal counsel.

Grand Jury (1948)

A Federal Grand Jury was convened in San Francisco in October 1948 to determine if there was "probable cause" for the treason charges. After reviewing the evidence, the Grand Jury refused to indict Iva Toguri unless the other American citizens involved at Radio Tokyo were similarly charged. Grand Jurors were especially insistent that Captain Ince, a POW who had worked with her, be charged. When prosecutors claimed Ince was still in the army and outside their jurisdiction, the Grand Jury adjourned without an indictment, went on "strike," and announced they would hold no further sessions until prosecutors prepared charges against Ince. Harried prosecutors then promised Ince would be charged before an army court-martial. Based on that explicit promise, the Grand Jury issued an eight-count indictment against Iva Toguri. (The promise was never kept. Ince was promoted to major shortly thereafter.) In historic hindsight, the eight "Overt Acts" charged seem vague and inconsequential (see Appendix B).

Following the indictment, defense lawyers made a motion for bail, but Federal Judge Louis B. Goodman ordered her confined without bail. She was in prison for nearly two years (counting her imprisonment in Japan) before her trial started the next year.

All-White Jury (1949)

At the arraignment before Federal District Judge Michael J. Roche on January 4, 1949, Iva Toguri pleaded innocent to all counts. (In 1943, Judge Roche denied a Habeas Corpus petition from Mitsuye Endo, an American woman involuntarily detained despite the government's lack of charges against her. This was one of the important test cases challenging the constitutionality of the mass detention of American citizens based on ancestry.) In the preparation for her trial, defense lawyers petitioned the court to subpoena

defense witnesses from Occupied Japan. The judge denied her constitutional right to summon these witnesses in her favor (see Appendix A). Meanwhile, prosecutors, who were provided with a list of potential defense witnesses, teletyped the names and addresses to the FBI Office in Tokyo. FBI Agent Frederick Tillman, accompanied by armed American soldiers, called on the Japanese witnesses and intimidated them (see Appendix D). The judge allowed transportation expenses for one defense lawyer and one translator to travel to Japan to obtain written depositions, but most witnesses were too frightened by then to cooperate. The prosecution did not have such handicaps. Prosecutors brought 19 Japanese witnesses from Occupied Japan using government transportation, paid the witnesses \$10 per day with government funds, and allowed them to go sightseeing for several weeks in California.

The trial began on July 5, 1949, in the Federal District Court in San Francisco with Judge Roche presiding. Jury selection proceeded with unexpected speed and was completed within two hours. Eight non-whites (six Black Americans, two Asian Americans) were on the first jury list, but prosecutors used peremptory challenges to remove all eight. Prosecutors were allowed 12 more peremptory challenges, but as soon as the panel was all-white, prosecutors announced acceptance. (Special Prosecutor Thomas DeWolfe was an observer at an earlier treason trial for Tomoya Kawakita in Los Angeles. The three jurors who held out longest against conviction were reported to be minority persons: A Black American, a Jewish American, and a Japanese American.) The defense also accepted the all-white jury of six men and six women.

The Prosecution

Attorneys for the prosecution were Frank J. Hennessy, head of the Justice Department's Northern California office; Thomas DeWolfe, who had successfully convicted Mildred Gillars for treason; John Hogan, who accompanied Brundidge to Japan; and James Knapp, a new Justice Department lawyer. The prosecution was required to prove Iva Toguri committed treason as defined in the Constitution: "Treason against the United States shall consist only in levying war against them, or adhering to their enemies, giving them aid and comfort. No person shall be convicted of treason unless on the testimony of two witnesses to the same overt act . . ." (see Appendix A).

Clark Lee opened the prosecution's case, testifying that Iva Toguri admitted to him she was a broadcaster at Radio Tokyo. However, Lee could only testify as to what she allegedly told him at that single interview, and he had no direct knowledge of what went on at Radio Tokyo. Co-accuser Harry Brundidge was present in San Francisco during the trial, but strangely enough, the prosecution did not call Brundidge to the witness stand. The reason became obvious when the next prosecution witness was cross-examined. FBI Agent Tillman testified he knew that a key witness before the Grand Jury, Hiromi Yagi, was bribed by Brundidge to falsely say he saw and heard Iva Toguri broadcasting anti-American statements (see Appendix C). Brundidge was not allowed to testify — apparently because the prosecutors, the defense attorneys, and the judge all agreed that Brundidge was an unreliable witness.

Several former soldiers testified they heard "Tokyo Rose" while stationed in the Pacific Theater, but they contradicted each other on the broadcaster's voice, accent, theme song, language, and time of program. The inconsistency was due to the fact that the soldiers actually heard different women, on different programs, at different times, broadcast from different locations. The ex-soldiers were actually identifying the legend of "Tokyo Rose", not the person on trial. None of the prosecution's American witnesses saw Iva Toguri commit the overt acts charged. Also, the prosecution did not present any recordings linking the defendant with the overt acts charged.

Thus, the prosecution's case depended on the testimony of Japanese officials present at Radio Tokyo during the war. Shigetsugu Tsuneishi, former Lt. Colonel in the Japanese army and chief of propaganda broadcasting, testified under cross-examination that "Zero Hour" was supposed to eventually contain propaganda, but it never got beyond the point of building listener interest

with appealing music. Tsuneishi said he waited for a Japanese battle victory to insert propaganda, but Americans won every battle after "Zero Hour" was inaugurated, and he observed, "Propaganda broadcasts from the losing side were rather ineffectual." He said English-speaking women broadcasters were used on 13 Japanese-controlled radio stations besides Tokyo: Arai, Bandung, Bangkok, Hsinking, Korea, Manila, Nanking, Rangoon, Saigon, Shanghai, Singapore, Soerabaja, Taiwan. (The specific locations in Korea and Taiwan were not identified.)

The critical witnesses for satisfying the constitutional requirement regarding treason conviction were two "ex-Americans" who claimed they saw Iva Toguri engaged in broadcasting as charged. One was George Mitsushio, who was born in San Francisco, attended the University of California at Berkeley and Columbia University, but left for Japan in 1940 and eventually became the civilian chief of the "Zero Hour" program. The other was Kenkichi Oki, who was born in Sacramento, attended St. Mary's College in Moraga and New York University, but left for Japan in 1939 and eventually became the production supervisor at Radio Tokyo. Both men claimed they changed nationality by signing their names in the Japanese family registry. According to the *Jus Sanguinis* laws of Japan, this action made them Japanese citizens; but they did not legally renounce their American citizenship before the U.S. Consul. They were technically citizens of both nations, and therefore were subject to treason charges by the United States. Oki testified he was not appearing voluntarily but had been brought forcibly to San Francisco by order of the U.S. Occupation Forces. Newspaper commentary focused on the irony of Iva Toguri being charged with treason because she insisted on retaining her American citizenship, while the key witnesses against her were "turncoats."

Iva Toguri was convicted for allegedly reading over the air, shortly after the Battle of Leyte Gulf, the words: "Orphans of the Pacific. You really are orphans now. How will you get home, now that all your ships are sunk?" The incongruous historic fact is that the Battle of Leyte Gulf was a resounding victory for the United States, and it is difficult to imagine how American troops could have been demoralized by such words. If anything, it must have sounded like hilarious comedy.

On October 7, 1949, Judge Roche sentenced Iva Toguri to 10 years in prison and a \$10,000 fine. Loss of American citizenship was automatic according to law. Thus, at age 33, she lost the citizenship she so tenaciously preserved and the citizenship which caused her to be convicted of treason. Defense motions for mistrial, arrest of judgment, clemency, and bail pending appeal were all denied by Judge Roche. Supreme Court Justice William Douglas later granted bail for \$50,000 pending appeal, but the money could not be raised. She said a final good-bye to her husband, who was in San Francisco for her trial, and was taken to Alderson Federal Reformatory for Women in West Virginia. Felipe d'Aquino was forced to sign a statement that he would never try to enter the United States again, and was taken back to Occupied Japan. Appeals based on denial of legal counsel, unlawful detention, denial of speedy trial, destruction of evidence, perjured testimony before the Grand Jury, denial of defense witnesses, misconduct by prosecutors, prejudicial instructions by the judge were all denied by the appellate courts. The Supreme Court rejected appeals for review three times in the next three years.

The Continuing Ordeal (1956 – present)

Iva Toguri was released from Alderson Federal Reformatory in January 1956, after serving six years and two months, with reduced time for good behavior. She was reported to have been a model prisoner. She went to live with her family in Chicago. Her return home might seem a final ending to her long struggle, but that was not to be. Promptly upon her release, the Immigration and Naturalization Service began deportation proceedings, claiming she was an "undesirable alien" and deportable under provisions of the McCarran-Walter Immigration and Naturalization Act of 1952. She had served her sentence and presumably paid her debt to society, exile was not part of her sentence, and the 1952 law was **ex post facto**. Nonetheless, the government gave her 30 days to leave the United States, or be forcibly deported. She moved back to San Francisco in May 1956 to defend herself in the deportation hearings, living with the Collins family. In 1958, the Immigration and Naturalization Service cancelled the deportation order, explaining they had nowhere to deport her since she held neither Japanese nor Portuguese citizenship. She returned to Chicago to live with her father and work in the family store. Reunion with her husband was not possible. The United States refused to grant d'Aquino an entrance visa; and if she left the country as a stateless person, she could not expect to return. Despite these barriers, they have not divorced in deference to their Catholic religion.

In 1968, the Justice Department demanded payment of the \$10,000 fine. However, she was without assets and worked only for subsistence in the family store. A Federal District Court in Chicago ordered her to surrender the cash value of two life insurance policies. The Chicago Japanese Civic Association Credit Union granted a loan equal to the cash value of \$4,745, and the fine was partially satisfied. In 1971, the Justice Department again summoned her into court to demand payment of the balance of \$5,255. Attorney Jiro Yamaguchi represented her in the Chicago proceedings; but Wayne M. Collins remained as associate counsel, and Collins blasted the government for capricious harassment. Collins charged the government must have billions of dollars in fines which they never try to collect. On November 14, 1972, the Seventh United States District Court of Appeals denied her a hearing to show why she could not be made to pay the remaining fine.

Attorney Theodore Tamba filed a petition for executive clemency (pardon) with the President of the United States on June 7, 1954 (Dwight Eisenhower was President), but Tamba's petition was not answered. Collins filed a second petition for presidential pardon on November 4, 1968 (Lyndon Johnson was

President; Richard Nixon was elected one day later), but Collins' petition was not answered either. A petition for presidential pardon can be filed only once during a six-year period.

Iva Toguri's father recently died, and his will stipulated that the remaining fine be paid from his estate. The government collected the last bit of retribution and closed her case. She is now 59 years of age, manages the family store for a living, and tries to remain as inconspicuous as possible. She is still a stateless person and she dreads publicity because every time articles appear in the newspapers about "Tokyo Rose," she receives threatening mail and telephone calls.

The Legend of "Tokyo Rose" persists, but most of Iva Toguri's adversaries are now dead: Journalist Clark Lee died in 1953; Prosecutor Thomas DeWolfe in 1959; Journalist Harry Brundidge in 1961; Prosecutor Frank Hennessey in 1968; Prosecutor John Hogan in 1968. Judge Michael Roche died in 1964. Her loyal defenders are also gone: Theodore Tamba died in 1973 and Wayne Collins in 1974. (The third defense counsel, George Olshausen, is living in Europe.)

During her trial in 1949, there were no organized groups supporting Iva Toguri. While Japanese Americans may have sympathized with her predicament, there was very little they could effectively do to help while their own position in American society was under attack. As their hard struggle to gain fundamental rights progressed, Japanese Americans warmed up to the idea of supporting Iva Toguri, but it was an excruciatingly slow evolution. In 1957, William Hosokawa suggested in the Japanese American Citizens League (JACL) newspaper: "Perhaps it is time to acknowledge that she does indeed exist, and say firmly that we are interested in seeing that she gains justice." In 1969 proposals were initiated within JACL in support of Iva Toguri and also in 1974 a resolution was adopted by the National Council of the Japanese American Citizens League (JACL) committing support for her (see appendix E). Now the largest national human rights organization representing Americans of Japanese ancestry with 30,000 members throughout the United States is supporting Iva Toguri.

The general public also had difficulty supporting Iva Toguri during her trial. McCarthyism was beginning to sweep the country in 1949, and most people withdrew from involvement in controversial cases. Congressional committees started investigating alleged communists in government and the movie industry, loyalty oaths were imposed on college professors and the espionage trial of Judith Coplon and perjury trial of Alger Hiss were in progress (Hiss was recently readmitted to the practice of law). When the severe repression subsided a bit in 1957, a small support committee was formed in San Francisco during Iva Toguri's deportation hearing, but people were still afraid to become involved.

Wayne M. Collins, Jr., has lived with the Toguri case since childhood, and when his father died he took over as Iva Toguri's attorney and chief advocate. He is planning to file another petition for executive clemency with the President of the United States. With the support of the American people, Iva Toguri has a good chance to redeem her name and regain her precious American citizenship. Iva Toguri deserves justice. She has suffered enough.

APPENDIX A

CONSTITUTION OF THE UNITED STATES OF AMERICA

Article III, Section 3:

Treason against the United States shall consist only in levying war against them, or adhering to their enemies, giving them aid and comfort. No person shall be convicted of treason unless on the testimony of two witnesses to the same overt act, or on confession in open court. The Congress shall have power to declare the punishment of treason, but no attainder of treason shall work corruption of blood, or forfeiture except during the life of the person attainted.

(Definition of Corruption of Blood: The effect of an attainder upon a person which bars him/her from inheriting, retaining, or transmitting any estate, rank, or title.)

Amendment VI:

In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial by an impartial jury of the state and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the assistance of counsel for his defense.

APPENDIX B

CHARGES AGAINST IVA TOGURI

That said defendant committed each and every one of the overt acts herein described with treasonable intent and for the purpose of, and with the intent in her to adhere to and give aid and comfort to the Imperial Japanese Government.

Overt Act I:

Between March 1, 1944 and May 1, 1944, the exact date being to the Grand Jurors unknown, defendant in the offices of the Broadcasting Corporation of Japan discussed with another person the proposed participation of defendant in the radio broadcasting program.

(Verdict: INNOCENT)

Overt Act II:

Between March 1, 1944 and May 1, 1944, the exact date being to the Grand Jurors unknown, defendant in the offices of the Broadcasting Corporation of Japan did discuss with employees of the said corporation the nature and quality of a specific proposed radio broadcast.

(Verdict: INNOCENT)

Overt Act III:

Between March 1, 1944 and May 1, 1944, the exact date being to the Grand Jurors unknown, defendant in the offices of the Broadcasting Corporation of Japan did speak into a microphone regarding the introduction of a program dealing with a motion picture involving war.

(Verdict: INNOCENT)

APPENDIX C

Overt Act IV:

Between March 1, 1944 and May 1, 1944, the exact date being to the Grand Jurors unknown, defendant in the offices of the Broadcasting Corporation of Japan did speak into a microphone referring to enemies of Japan. (Verdict: INNOCENT)

Overt Act V:

Between March 1, 1944 and May 1, 1944, the exact date being to the Grand Jurors unknown, defendant in the offices of the Broadcasting Corporation of Japan did prepare a script for subsequent radio broadcast concerning the loss of ships. (Verdict: INNOCENT)

Overt Act VI:

That on a day during October 1944, the exact date being to the Grand Jurors unknown, the defendant in the offices of the Broadcasting Corporation of Japan did speak into a microphone concerning the loss of ships. (Verdict: GUILTY)

Overt Act VII:

That on or about May 23, 1945, the defendant in the offices of the Broadcasting Corporation of Japan did prepare a radio script for subsequent broadcast. (Verdict: INNOCENT)

Overt Act VIII:

That on a day between May 1, 1945 and July 31, 1945, the exact date being to the Grand Jurors unknown, defendant in the offices of the Broadcasting Corporation of Japan did engage in an entertainment dialogue with an employee of the Broadcasting Corporation of Japan for radio broadcast purposes. (Verdict: INNOCENT)

Excerpts from a Letter to the President of the United States Which Accompanied a Petition for Executive Clemency By Theodore Tamba, Attorney at Law, June 7, 1954

The most shocking experience I had was the alleged conduct of a man named Harry Brundidge, a newspaperman . . . (who) accompanied to Japan a man named Hogan, an attorney for the Justice Department . . . Mr. Brundidge is alleged to have deliberately bribed witnesses by promises of trips to the United States and other gifts. While Brundidge was in Japan with Hogan, he made contact with (Hiromi) Yagi who was induced to come to the United States as a witness for the United States Government, and who testified before the United States Grand Jury . . .

My investigation developed that Yagi was then an employee of the Japanese Travel Bureau . . . and I went to the Japanese Travel Bureau and there met Yagi. I then asked (Yagi) what he knew about the case of alleged treason against (Iva Toguri). (Yagi) then gave me a narrative of one of the most obviously fictitious stories I have ever heard in my professional career. Finally, under questioning by me, Yagi stated that this was a story he and Brundidge had concocted . . .

I had the occasion (to meet a man named Toshikatsu Kodaira, a Japanese newspaperman working for the United Press in Tokyo). Mr. Kodaira then proceeded to narrate the events truthfully and his statements are supported by his deposition on file in the United States District Court in Northern California, much of which was not allowed in evidence. (Kodaira stated he accompanied Yagi to a meeting with Brundidge, and that Brundidge attempted to bribe both of them with whiskey, clothing, and a trip to the United States.) Kodaira was summoned by the (United States) Occupation to the Office of Occupation Intelligence Service and there he confronted Yagi, who admitted that the testimony he (Yagi) gave before the United States Grand Jury was pure fiction. Kodaira produced the suit of clothes given him by Brundidge. The trousers and coat bore the name of Harry Brundidge.

APPENDIX D

Excerpts from a Letter to the President of the United States Which Accompanied a Petition for Executive Clemency By Wayne M. Collins, Attorney at Law, November 4, 1968

There was no trick or device to which the government's agents would not or did not resort in seeking an undeserved conviction . . . They seized two of the Australian witnesses (Maj. Charles Cousens and Sgt. Kenneth Parkyns) who had notified the Attorney General that Iva (Toguri) was guiltless of any act against the interests of the United States and that they offered to testify on her behalf. Both were former prisoners of war held by the Japanese at the Bunka Prisoner of War Camp in Tokyo. Two F.B.I. agents seized them on their arrival from Australia and secreted them in a locked room at the Pan American Airway Terminal at the San Francisco Airport and subjected them to interrogation and attempted to browbeat them into refusing to testify for the defendant. They held those Australian ex-soldiers incommunicado until counsel for the defendant was informed by a Customs officer that the agents had taken the two Australian passengers to that room. Thereupon, counsel for the defendant broke through the locked door, irrupted into the room and brought the tete-a-tete to an abrupt climax and halt.

On March 1, 1949, the defendant filed a notice of motion for an order of court of the issuance of subpoenas to be served on 43 witnesses for the defendant in Japan for the taking of their depositions. To obtain such an order on behalf of the impoverished defendant at government expense, the defendant was required by court rule to file an affidavit specifying therein the name and address of such witnesses and a statement of the testimony expected to be elicited from them. Immediately following the service of such a notice and affidavit on counsel for the prosecution, the names and addresses and contents of the affidavit revealing the testimony expected to be elicited from each of the 43 witnesses was teletyped to the Justice Department and relayed to F.B.I. agents in Tokyo. Thereupon, F.B.I. agent Fred Tillman accompanied by one or two M.P.'s called upon a majority of the witnesses and coerced them to sign statements containing a multitude of falsities.

APPENDIX E

NATIONAL JAPANESE AMERICAN CITIZENS LEAGUE RESOLUTION

**Adopted by the National Council on July 27, 1974
at the 23rd Biennial National Japanese American
Citizens League Convention in Portland, Oregon.**

WHEREAS, Iva Toguri was the victim of wartime hysteria and became a scapegoat for her alleged role as "Tokyo Rose" for those forces which sought to foster vengeance and national retribution; and

WHEREAS, Iva Toguri suffered imprisonment, embarrassment, and physical and mental anguish for alleged acts of treason; and

WHEREAS, it is now apparent that much of the evidence and the conduct of her trial were highly questionable and prejudicial and that in view of the motivations and climate of public hysteria at the time of the trial the verdict is a blot on the integrity of American jurisprudence;

NOW, THEREFORE, BE IT RESOLVED that the Japanese American Citizens League, meeting at its 23rd Biennial National Convention in Portland, Oregon, July 23 to 27, 1974, recognize that Iva Toguri was unjustly tried and convicted in the aftermath of World War II;

BE IT FURTHER RESOLVED that the JACL offer to Iva Toguri and her family its belated apology for long silence and inaction;

BE IT FURTHER RESOLVED that the JACL use its leadership, manpower, and resources to correct the miscarriage of justice in Iva Toguri's case by seeking all executive or other remedies available under the law;

BE IT FURTHER RESOLVED that the JACL personally contact Iva Toguri to apprise her of the action of the National Council, and to ask whether she desires, consents to, or accepts any help from the National organization.

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