

History on Trial
Episode 10
The United States v. Iva Toguri D'Aquino
Part Two
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PROLOGUE (RECAP)

Hello History on Trial listeners. This is the second part of a two episode series on the case of Iva Toguri D'Aquino. In today's episode, we'll cover the trial and its aftermath. If you haven't listened to part one yet, I strongly recommend starting there to hear the full story.

A brief reminder of what we covered in the last episode. Iva Toguri was the American-born and raised daughter of two Japanese immigrants. In the summer of 1941, the then twenty-five-year-old Iva traveled to Japan to visit her sick aunt. Five months later, the Japanese attacked Pearl Harbor, and the United States declared war on Japan. Iva tried desperately to get home, but was stymied by multiple obstacles, including a lack of money, and obstruction by the State Department, who questioned her citizenship status – despite Iva having lived her whole life in Southern California.

Stuck abroad, Iva took on part-time work, including a job as a typist at the Japanese Broadcasting Corporation, or NHK. At NHK, she met several Allied prisoners of war who had been forced to work on a Japanese propaganda radio program called “Zero Hour”. The men were trying to secretly sabotage “Zero Hour” by filling it with music and fun banter. Eventually, the POWs asked Iva to join the program as an announcer, both because they knew she would support their sabotage agenda, and also because she had an unappealing voice, which would make for entertaining broadcasts. Iva agreed and began working on the program in late 1943. When her Japanese military bosses assumed more control of the program and changed its tone, Iva tried to quit, but was told she could not. Conditions in war time Japan were extremely difficult, and Iva lived in near-starvation.

One bright spot of this dark period was her marriage to Felipe D'Aquino, a man who she had met at one of her jobs, and who shared her pro-American stance.

In the meantime, Iva's family in America was incarcerated, along with approximately 100,000 other Japanese-Americans, in prison camps established by the federal government. The terrible conditions at the camp killed her mother, Fumi.

After the war's end, reporters identified Iva as one of English-speaking female broadcasters who had become legendary to American GIs in the Pacific under the collective nickname "Tokyo Rose." Iva's role as a "Tokyo Rose" sparked an investigation by the US military and the Department of Justice into whether she had committed treason. Iva was arrested and held in prison for a year without access to a lawyer. Ultimately, both the military and the DOJ concluded there was no evidence of treason and released her. However, when Iva and Felipe tried to return to America in 1947, the press started a crusade against her and called for her to be prosecuted. Succumbing to public and political pressure, the Department of Justice re-opened the case against Iva, and arrested her in September 1948. Iva was brought to San Francisco and charged with 8 overt acts of treason.

Despite these extremely difficult circumstances, Iva was optimistic: a prominent civil rights attorney, Wayne Collins, agreed to take her case for free, and she was able to reunite with her family in America. Iva believed that the trial would establish her innocence. She believed that the justice system would operate fairly. But as she would soon learn, the prosecution wasn't interested in fairness...or even in following the rules.

Welcome to History on Trial. I'm your host, Mira Hayward. This week, the United States v. Iva Toguri D'Aquino.

ACT I

Treason is the only crime explicitly defined in the Constitution.¹ When defining the crime, the Constitution's framers were very careful with their words. In England, treason law had frequently been abused by the government to persecute political enemies, and the new American government wanted to prevent the same abuses from occurring in the United States.² However, they also wanted to make it clear that betraying the government *was* a crime. The phrasing they settled on, as recorded in Article 3, Section 3, Clause 1 is: "Treason against the United States, shall consist only in levying War against them, or in 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."³

¹Paul T. Crane and Deborah Pearlstein, "Interpretation & Debate: Treason Clause," National Constitution Center, 2024.

<https://constitutioncenter.org/the-constitution/articles/article-iii/clauses/39#:~:text=The%20Constitution%20specifically%20identifies%20what,aid%20and%20comfort.%E2%80%9D%20Although%20there>

² "ArtIII.S3.C1.1 Historical Background on Treason," *Constitution Annotated*, United States Congress.

https://constitution.congress.gov/browse/essay/artIII-S3-C1-1/ALDE_00013524/

³ United States Constitution, art. 3, sec. 3, clause 1.

<https://www.archives.gov/founding-docs/constitution-transcript>

The Grand Jury charged Iva with eight acts of treason, with, quote “treasonable intent and for the purpose of, and with the intent in her to adhere and give aid and comfort to the Imperial Japanese Government.”⁴ The charges all regarded specific allegations: not just that Iva was a radio broadcaster, but that she had done specific actions while in this role, including making certain statements, such as ones regarding the loss of American ships. Though the acts themselves were specific, the details ended there: the charges did not have exact dates for the acts, simply giving date ranges instead.⁵

Once the charges were brought, Iva’s lawyer, Wayne Collins, got busy. He added two more lawyers, Theodore Tamba and George Olshausen, to the defense team. Like Collins, Tamba and Olshausen agreed to work for free.⁶

On March 1, 1949, the defense petitioned the government that forty-three witnesses living abroad be subpoenaed and brought at government expense to testify in the trial. The government refused to issue the subpoenas, claiming that it could not issue subpoenas for residents of foreign countries. This may have applied to some of the witnesses, but many of the subpoenas the defense had requested were for American citizens only temporarily residing in Japan. In an earlier treason trial for Mildred Gillars, an American radio broadcaster for the Nazis, the government had agreed to pay to bring defense witnesses from Germany, but in Iva’s case, they refused.⁷

However, the government did agree to provide limited funds for a defense lawyer to travel to Japan and collect depositions. The funds allocated were so limited that they did not cover a translator. Jun Toguri, Iva’s father, agreed to cover this cost, as he would many of the trial costs - eventually having to take out loans to cover the expenses.⁸

In late March, defense attorney Theodore Tamba traveled to Japan to seek out witnesses. Once there, he quickly ran into obstacles. When the defense had submitted their request for 43 subpoenas, the Justice Department had immediately sent the witness list over to the military headquarters in Tokyo, which had then dispatched an FBI agent to speak to all of these witnesses first. When Tamba, his translator, and Noel Storey, a representative of the Attorney General’s office who was there to perform cross-examinations of the witnesses, tried to speak to witnesses, they found that many were too frightened to speak, Tamba later said. Quote, “They appeared to Mr. Storey and to me to be genuinely frightened of our troops in occupied Japan. A number of them had been led to believe that if they testified against Mrs. d’Aquino [they could avoid] being

⁴ Masayo Duus, *Tokyo Rose: Orphan of the Pacific*, trans. Peter Duus, (Tokyo: Kodansha International Ltd., distributed in the United States by Harper & Row, 1979), 133-134.

⁵ Duus, 134-135.

⁶ Duus, 133.

⁷ Duus, 142-143.

⁸ Duus, 143, 147.

charged and put on trial for their own admitted treasonable utterances and conduct.”⁹ Tamba and his translator struggled to get through to these witnesses, and ended up having to stay in Japan for an additional month, at further cost to Jun Toguri. This resulted in a delay of the trial.¹⁰

The prosecution, on the other hand, had no shortage of resources. They paid for 19 witnesses to travel from Japan.¹¹ The government offered witnesses \$10 dollars a day, or around 3,300 yen - more than the monthly salary of the average Japanese university graduate at the time.¹² Several of these witnesses saved enough during the trial that they were able to start businesses upon their return to Japan.¹³

Despite the wealth of witnesses, time, and money, the prosecutors still had concerns. Namely, they did not believe that they had a compelling case. Frank J. Hennessey, the United States Attorney for the Northern District of California, was originally the only prosecutor assigned to the case. After Hennessey reviewed the case, however, he recommended to Attorney General Tom Clark that the charges be dropped for lack of evidence.¹⁴ The Justice Department, instead of following Hennessey’s recommendation, assigned him a partner: Tom DeWolfe, an Assistant Attorney General who specialized in treason cases. But like Hennessey, DeWolfe had concerns. He had run the grand jury that charged Iva back in October, and privately admitted shortly after that he had pressured the jurors to indict. He wrote to a colleague about how he had promised that other American broadcasters would be tried for treason - despite there being no plan to do so. “If the above action had not been taken by me,” DeWolfe wrote, “I believe the grand jury would have returned a no true bill against Mrs. d’Aquino.”¹⁵ In other words, they wouldn’t have charged her.

DeWolfe’s doubts about the case were long standing. In May 1948, he had written a strongly worded memo to a colleague in which he concluded that, quote “There is no evidence upon which a reasonable mind might fairly conclude guilt beyond a reasonable doubt.”¹⁶

Despite their concerns, Hennessey and DeWolfe continued with the prosecution, under orders from Attorney General Tom Clark. The prosecution team was rounded out by James Knapp and John Hogan.

⁹ Duus, 144.

¹⁰ Duus, 145.

¹¹ Duus, 147.

¹² Duus, 148.

¹³ Duus, 149.

¹⁴ Duus, 152.

¹⁵ Duus, 136.

¹⁶ Tom DeWolfe to Raymond P. Whearty, memorandum, “Subject: Iva Toguri,” May 25, 1948, from the collection of the Gerald Ford Presidential Library, 5.

On July 5th, at 10am, Judge Michael Roche, chief judge of the United States District Court of Northern California, began the proceedings for jury selection. Iva sat beside her lawyers, pale and drawn. She had endured the traumatic stillbirth of her first child only eighteen months earlier and now suffered from recurring dysentery. Her shoulder-length black hair was held back by a headband, and she wore a modest plaid suit that she had owned for years. She would wear this suit every day of the trial.¹⁷

Jury selection went quickly. The defense team tried to screen jurors for prejudiced attitudes towards Japanese Americans. The prosecution team, on the other hand, screened jurors by race, using their peremptory challenges—challenges that do not require an explanation—on every non-white juror.¹⁸ The practice of being able to remove jurors of certain races using peremptory challenges was only stopped by a 1986 Supreme Court case, *Batson v. Kentucky*, though it is often hard to prove that challenges were racially motivated.¹⁹ In the end, Iva’s jury was entirely white, and consisted of six men and six women.²⁰

THE PROSECUTION

Tom DeWolfe delivered the opening statement for the prosecution the next day. He told jurors that Iva had stayed in Japan voluntarily and that she had participated in the broadcasts enthusiastically, despite knowing that they were, quote, “nefarious [and] propagandistic.”²¹ He said that Iva had made certain statements designed to ruin American morale: quote, “she told American troops that their wives and sweethearts were unfaithful,” and also that, quote, “the Japanese would never give up...[so] there was no reason for Americans to stay there and be killed.”²² DeWolfe said she did all this with malicious intent. In his May, 1948 memo, DeWolfe had thought otherwise, writing “There is no proof available that when subject committed said acts she intended to betray the United States.”²³ But that belief wouldn’t stop him now!

¹⁷ Duus, 152.

¹⁸ Duus, 153-154.

¹⁹ “Facts and Case Summary – *Batson V. Kentucky*,” United States Courts (<https://www.uscourts.gov/educational-resources/educational-activities/facts-and-case-summary-batson-v-kentucky>) and Nathalie Greenfield, David Eichert, Nicholas Pulakos, and Oladoyin Olanrewaju, “Race-Based Peremptory Challenges,” Cornell University. <https://courses2.cit.cornell.edu/sociallaw/FlowersCase/peremptorychallenges.html#:~:text=The%20critical%20case%20regarding%20peremptory,on%20account%20of%20their%20race.>

²⁰ Duus, 154.

²¹ Duus, 155.

²² Duus, 155.

²³ DeWolfe memo, 4.

After using his first witness to establish that Iva had signed autographs as Tokyo Rose after the war, DeWolfe called Shigetsugu Tsuneishi to the stand. Tsuneishi was the Japanese Imperial Army officer in charge of the propaganda program at NHK. He testified that the purpose of Zero Hour, the program Iva had announced for, was, quote “[to] make Allied troops homesick and tired or disgusted with the war.”²⁴ He also claimed that quote, “absolutely no threatening or violent language [was] used” to compel prisoners of war to work on the broadcast.²⁵

On cross examination, Wayne Collins got Tsuneishi to concede several points that supported the defense. First, he asked Tsuneishi if any other Japanese propaganda stations broadcasting to the Pacific used English-speaking female broadcasters. Tsuneishi said that there were thirteen such stations – a fact that defense would use to great effect later in their case.²⁶

Next, Collins pressed Tsuneishi on the actual propaganda content of “Zero Hour.” Tsuneishi admitted that the program had focused on entertainment. His strategy had been to rope in American listeners with an “appealing” program, and then, once the Japanese began winning the war, to introduce more propagandistic content. But unfortunately, Tsuneishi continued, quote, “the opportunity did not present itself to do the real, true propaganda program that I wanted.”²⁷ Here was Iva’s boss’s boss, the lead Army official on the radio propaganda broadcasts, admitting himself that Iva’s program had not contained propaganda.

Collins also tried to poke holes in Tsuneishi’s claim that POWs were not forced to work on the programs, by bringing up the story of George Williams. Williams was a British civilian who had been held at Bunka Camp, the prison where POWs who worked at NHK were kept.²⁸ When Williams had refused to participate in broadcasts, Tsuneishi ordered guards to take him away. Tsuneishi then allowed the POWs to believe that Williams had been killed for his refusal. In reality, Williams had been transported to a different POW camp, where he lived for the rest of the war, but the imagined threat struck fear into the hearts of the POWs. They understood that their choice was to participate in the broadcasts or to die. This was important information for the jury to understand the culture of fear that Iva was steeped in during her time at NHK, but, unfortunately, they

²⁴ Yasuhide Kawashima, *The Tokyo Rose Case: Treason on Trial* (Lawrence, KS: University Press of Kansas, 2013), 90.

²⁵ Kawashima, 90.

²⁶ Kawashima, 91.

²⁷ Kawashima, 91.

²⁸ “Tokyo Bunka POW Camp, Radio Tokyo,” Center for Research: Allied POWs Under the Japanese, Roger Mandell Group, http://mansell.com/pow_resources/camplists/tokyo/tok-bunka/tok_bunka.html

did not get to hear the full story. Tom DeWolfe had objected to the testimony, and Judge Roche had agreed with him that it was irrelevant.²⁹

Another thing the jurors did not get to hear – though they may have deduced it for themselves – was about Tsuneishi’s ulterior motives. On July 7th, the day before he testified, an article had appeared about Tsuneishi in the San Francisco *Chronicle*. In it, a former Bunka Camp inmate, Mark Streeter, had accused Tsuneishi of being, quote, “one of the worst war criminals.” Streeter, who alleged that Tsuneishi had beaten him at Bunka Camp, was shocked to learn that the government was using Tsuneishi as a court witness, and not instead prosecuting him for the abuses he perpetrated at Bunka Camp.³⁰

Tsuneishi, then, was clearly motivated to protect himself, and deny any using coercion with NHK staff or prisoners of war. In fact, he would later admit to a reporter that he had lied to Australian officials who were investigating another POW’s involvement in broadcasts in order to protect himself and his superiors from prosecution.³¹

Tsuneishi was not the only witness whose testimony was affected by fear of prosecution. Kenkichi Oki and George Hideo Mitsushio, Iva’s supervisors on “Zero Hour,” were also testifying. Oki and Mitsushio, like Iva, were *nisei* - American born children of Japanese parents. Both men had traveled to Japan before the war. They had both become Japanese citizens, but had not at this point renounced their American citizenship.³² As directors of “Zero Hour,” they were just as vulnerable as Iva, if not more so, to charges of treason.

The government was relying on Oki and Mitsushio to serve as witnesses for each of the 8 acts of treason Iva was charged with. The Constitution stipulates that, quote, “No Person shall be convicted of Treason unless on the testimony of two Witnesses to the same overt Act.”³³ Oki and Mitsushio were to be those two witnesses. Their testimony was highly specific, even using the exact language of the indictments in their answers when describing Iva’s alleged acts. Their memory of the crimes was detailed: both men recited the same quote that they claimed Iva had broadcast: quote, “Now you fellows have lost all your ships. You really are orphans of the Pacific. How do you think you will ever get home?” But when Collins pressed Oki for any other details of the day when he claimed that Iva had made this statement, Oki could not recall any: not what breakfast he ate,

²⁹ Kawashima, 93, 106-107.

³⁰ Duus, 157.

³¹ Duus, 160.

³² Duus, 176.

³³ United States Constitution, art. 3, sec. 3, clause 1.

not what he wore, not the weather. He could only remember, in exact order, the 24 treasonous words that Iva was supposed to have said that day.³⁴

Oki also admitted on cross that he was not testifying voluntarily, and had been brought to San Francisco forcibly on the orders of the U.S. Army. Mitsushio and Oki's testimony, as a whole, seemed suspect. At the lunch recess, David Seizo Hyuga, a prosecution witness, came up to the defense lawyers and told them that he could prove that Mitsushio and Oki's testimony was false. But the defense never got a chance to question Hyuga – after the prosecution learned he had been talking to the defense, they sent him back to Japan, and he never testified at all.³⁵

In 1976, nearly 30 years after the trial, Ronald Yates published a bombshell report in the *Chicago Tribune*. Yates had interviewed prosecution witnesses living in Japan, including Kenkichi Oki and George Mitsushio. These witnesses all alleged that they were coerced to testify and lie on the stand under threat of prosecution. “The post-war sentiment against Japanese and against Americans of Japanese ancestry was tremendous,” remembered one witness, “We were told that if we didn't cooperate Uncle Sam might arrange a trial for us too.”³⁶ Cooperation, in this case, meant lying on the stand. One of the men told Yates, quote, “Iva never made a treasonable broadcast in her life.”³⁷

Threatening witnesses, shocking as it may be, was not the only taint on the prosecutions' witnesses. There was also the question of bribery.

Remember Clark Lee, the reporter who interviewed Iva in August 1945? In his May 1948 memo, DeWolfe had called Lee and Harry Brundidge's interview with Iva, quote, “questionable and of doubtful propriety,” but now he was relying on Lee's testimony as part of his case. Lee's testimony itself was also questionable and doubtful. He claimed that Iva had told him that she had broadcast the words “Orphans of the Pacific, you really are orphans now. How are you going to get home now that all of your ships are sunk?” This was very similar to the quote that Mitsushio and Oki had used.³⁸ But this phrasing appeared nowhere in his original notes on the interview with Iva.

So that's not great. But I promised you bribery. That little issue came out on cross examination when Wayne Collins asked Lee about Hiromu Yagi, a witness who had testified at the grand jury. “Now Mr. Lee,” Collins asked, “isn't it a fact that you and Mr.

³⁴ Duus, 97

³⁵ Kawashima, 100.

³⁶ Ronald Yates, “Tokyo Rose's accusers claim U.S. forced them to lie,” *Chicago Tribune*, March 22, 1976, page 15.

³⁷ Yates, “Tokyo Rose's accusers.”

³⁸ Kawashima, 94.

Brundidge requested to me to go to the St. Francis Hotel on October 25, 1948, because you wished to ascertain from me...whether or not I knew that Harry Brundidge had gone to Japan in 1948 and...advised Yagi to come before the grand jury and testify falsely in this case?" DeWolfe immediately objected, shouting "You know that's nonsense!" Judge Roche shut the line of questioning down, but the seed was planted.³⁹

And the truth - or most of it - came out in the testimony of the next witness, FBI agent Frederick Tillman. On cross, Collins asked Tillman if he had told defense lawyer Theodore Tamba that Hiromu Yagi had confessed that he had been bribed to lie to the grand jury. DeWolfe objected again, but after Collins argued that the jury needed to know about a possible obstruction of justice, Judge Roche allowed the testimony. Tillman admitted that the answer to Collins's question was yes: A witness at the grand jury, which had indicted Iva and sparked these trial proceedings, had indeed been bribed to lie.⁴⁰

Roche did not allow Tillman to tell the whole story, but it is a simple and sordid one. Two months after the grand jury indicted Iva, Assistant Attorney General Alexander Campbell sent a memo to Attorney General Tom Clark. The memo revealed that Hiromu Yagi, who had told the grand jury that he had personally seen Iva make a broadcast where she taunted Americans, had been bribed to lie on the stand by reporter Harry Brundidge.

When Brundidge had gone to Japan in 1948 to pursue the Tokyo Rose story, he had tried to convince at least two witnesses to lie on the stand by plying them with gifts and promises of a free trip to America. One of these witnesses had refused, but Yagi had gone along with the plan. Yagi's testimony had rung false to FBI Agent Tillman, so he had immediately begun to look into the matter. After an investigation in Japan and a further interrogation of Yagi, the truth came out.⁴¹

Despite the Justice Department knowing full well that the grand jurors had heard perjured testimony, and that Harry Brundidge had suborned the perjury, the Department decided to proceed with Iva's case *and* also not not pursue a case against Brundidge. There were two reasons to not go after Brundidge, according to Assistant Attorney General Campbell. First, he believed that jurors would not convict Brundidge, a white man, on the testimony of two Japanese men. Secondly, and perhaps more importantly, as Campbell wrote in his memo to Attorney General Clark, quote "we believe that [instituting prosecution against Brundidge] prior to the completion of

³⁹ Kawashima, 95.

⁴⁰ Kawashima, 95.

⁴¹ Duus, 164-169.

litigation would completely destroy any chance of a conviction in [Iva's] case."⁴² The Attorney General's office chose a chance at conviction over telling the truth.

So far, nearly all the prosecution witnesses' testimony was corrupted in some way – although, of course, the jury did not know the full extent of the problem. Fortunately for the prosecution, their next witnesses would not have the same credibility issues - though their testimony did have other problems. These witnesses were the Pacific GIs who had heard "Tokyo Rose" broadcast propaganda statements. These servicemen testified to hearing a woman, who they said used Iva's alias, "Orphan Ann," talk about troop movements, taunt them with allegations of their wives and girlfriends' infidelity in their absence, and try to make them homesick by talking about steak and ice cream.⁴³

Many of these memories, as Collins was able to reveal on cross-examination, were vague and amorphous. The servicemen could not remember specific dates or times, and often it seemed likely that they were remembering *rumors* about Tokyo Rose broadcasts, not actual broadcasts themselves.⁴⁴ However, some of the testimony was emotionally compelling. Marshall Hoot, a chief boatswain's mate, testified about hearing a broadcast that he then made a note of in a letter home to his wife. Judge Roche allowed Hoot to read the entirety of the emotional letter, where he talked about how much he missed his wife and how painful the war was. The letter brought some jury members to tears.⁴⁵ Suddenly, Tokyo Rose's crimes seemed very real.

However, the details of those alleged crimes did not always line up. For example, Marshall Hoot was sure he had heard Tokyo Rose discussing infidelity while he listened at dinner, between 6 and 7 o'clock. That was indeed when "Zero Hour" aired – but in Tokyo. In the Gilbert Islands, where Hoot had been at the time, the time was three hours earlier. So "Zero Hour" aired at 3 o'clock there, not 6.⁴⁶ Many other GI's testimony had similar time zone issues.⁴⁷ Other men's statements contradicted earlier statements they had given the FBI, although neither the defense attorneys nor the juror knew this.⁴⁸

For the final piece of their case, the prosecution introduced recordings and scripts of Iva's broadcasts. During the war, American monitors had recorded all of the Zero Hour broadcasts. While she was in Sugamo prison, Iva had been told that there were 340 recordings. However, the prosecution now only introduced six recordings.⁴⁹ None of

⁴² Duus, 169.

⁴³ Duus, 179, and Kawashima, 100.

⁴⁴ Duus, 183.

⁴⁵ Duus, 181.

⁴⁶ Duus, 180-181.

⁴⁷ Kawashima, 100.

⁴⁸ Duus, 180.

⁴⁹ Duus, 183. The other recordings and scripts may have been destroyed by the military after they and the DOJ determined that there was no case against Iva in 1946 (see Duus, 171).

these recordings contained statements that corroborated the overt acts - for example, none of them referenced the loss of ships. Instead, the recordings were surprisingly trivial and light: “Hello you fighting orphans in the Pacific. How’s tricks? This is [...]Annie back on the air [...]. Reception O.K.? Well, it better be because this is all request night and I’ve got a pretty nice program for my favorite little family—the wandering boneheads of the Pacific Islands,” went one broadcast.⁵⁰ Her announcements were interspersed with music, and some jurors could be observed tapping their fingers or feet to the beat.⁵¹ Before the broadcast introduced one song, she jokingly warned listeners, “It’s dangerous enemy propaganda, so beware.”⁵² As DeWolfe himself had said in his May memo, quote “The scripts of her programs seem totally innocuous and might be said to have little, if any, entertainment value.”⁵³

On this somewhat anticlimactic note, on August 12, the prosecution rested. Though many of their witnesses had had credibility issues, some of these credibility issues were unknown to the jury. And the testimony of the servicemen, while somewhat vague, had been heart wrenching. Could the defense offer a compelling rebuttal?

We’re going to take a quick break now. When we return, we’ll find out what Iva’s defense team had to say.

THE DEFENSE

On August 13th, 1949, Theodore Tamba delivered the defense opening. He kept things simple: the defense would show, he said, that Iva never had treasonous intent, and that she had broadcast under threat and duress.⁵⁴

The defense’s first witness was Charles Cousens, the Australian POW who had worked with Iva on “Zero Hour.” Two years earlier, Cousens himself had been charged with treason in Australia, but the charges were quickly dropped, and he had resumed his civilian life. When he heard about Iva’s trial, he immediately volunteered to testify in her defense. Iva was so happy to be reunited with Cousens, who she had last seen in a POW hospital as he recovered from a heart attack, that she broke down crying when she saw him.⁵⁵

The defense team hoped that they could use Cousens’s experience to provide context for the duress Iva might have experienced. They asked him to talk about what he had seen

⁵⁰ Kawashima, 184.

⁵¹ Duus, 184.

⁵² Duus, 185.

⁵³ DeWolfe memo, 3.

⁵⁴ Duus, 187.

⁵⁵ Duus, 145-147.

while in POW camps. As Cousens began to tell the story of Japanese guards beating a fellow prisoner to death, the normally self-possessed man broke down into tears. When he regained his composure he continued the story, but the prosecution objected. After an argument out of the jury's hearing, Judge Roche once again ruled that this sort of background information was irrelevant and inadmissible. Further testimony about the broadcasting specific threats that Cousens had endured, including when Tsuneishi ordered him to participate in broadcasts while pointedly displaying his unsheathed sword, were also objected to by the prosecution, and Judge Roche struck the testimony. Roche additionally barred Cousens from explaining that Iva had brought food and medicine to the POWs because she had heard about the awful conditions at Bunka Camp. All of this evidence, crucial to explaining the environment Iva lived and worked in, was not allowed.⁵⁶

Cousens was permitted, however, to talk about his work with Iva at NHK. He explained that he had coached Iva in order to make the material as enjoyable as possible, teaching her comedic timing and rhythm. He had chosen Iva, he explained, because of her terrible voice, which he believed would make a quote, "complete burlesque" of any propaganda content. He also testified that he had explicitly told Iva about the subversive intents of the program.⁵⁷

Cousens' testimony was backed up by the testimony of two other POWs, Wallace Ince and Norman Reyes.

Next, the defense called their own set of GIs. These men testified that they had enjoyed listening to "Zero Hour," although some also said that they were disappointed that the G-rated, somewhat bland banter of Orphan Ann didn't live up to, quote, "[the] witty and smutty and entertaining" legend of Tokyo Rose.⁵⁸ An intelligence officer testified that he had originally listened to the program in order to learn about Japanese propaganda, but, quote "did not find propaganda."⁵⁹ One officer, stationed in Alaska, recalled the Alaskan Command telling him and his colleagues that the Orphan Ann broadcasts were good for troop morale.⁶⁰

After the servicemen's testimony, Yoneko Kanzaki took the stand. Kanzaki, a *nisei* born in New Jersey, had met Iva in Japan during the war. Kanzaki had later gotten a job as an English-language announcer for a German radio program. This program had, for quite some time, aired right before "Zero Hour," but unlike "Zero Hour," "German Hour"

⁵⁶ Kawashima, 105-107.

⁵⁷ Kawashima, 107-108.

⁵⁸ Kawashima, 112.

⁵⁹ Kawashima, 112.

⁶⁰ Duus, 197.

contained explicit propaganda content.⁶¹ The point of Kanzaki's testimony was to establish that there had been other female, English-speaking broadcasters who were just as likely to be "Tokyo Rose" as Iva was.

Another Tokyo Rose candidate was Myrtle Lipton. Lipton herself did not testify at the trial, but her story was recorded through the deposition of Ken Murayama. Murayama was a *nisei* reporter who had worked for a Japanese news agency in Manila during the war. While there, Murayama had written scripts for "Melody Lane," an English-language Japanese propaganda radio program hosted by Myrtle Lipton. Lipton, Murayama testified, had a, quote, "low-pitched, husky voice" that appealed to listeners – just the type of voice that the mythological Tokyo Rose was said to have, very different from Iva's harsher tone. Murayama stated that Lipton's scripts were, quote, "designed to create a sense of homesickness among troops in the Southwest Pacific...we had stories of girls having dates with men at home, while possibly their sweethearts and husbands might be fighting."⁶² Buddy Uno, a POW who had also worked on Lipton's program, said of the show, quote "It carried a punch; it was sexy; she had everything in it...She painted horrible pictures of [the] jungles, dropping bombs, and foxholes. Then she described the 'good old days' back home, saying things like 'what a pity fellows have to die in the jungle without even knowing what you are fighting for.'"⁶³ This kind of content was exactly what Iva was accused of broadcasting – could witnesses have gotten her broadcast mixed up with Lipton's?

On the forty-sixth day of the trial, September 7th, Iva herself took the stand. Reflecting on her decision to take the stand, Iva told Masayo Duus, "If I got on the witness stand and told only the truth, then the truth would win, I thought."⁶⁴ Collins began by leading Iva through her early life in America. As she spoke, reporters and jurors alike listened closely: did this woman's voice align with the allegedly seductive, alluring voice of Tokyo Rose? Most did not think so: the *San Francisco Chronicle* called it a "hard voice," and the *Pacific Citizen* described her voice as "harsh" and "jerky."⁶⁵ Personally, I think her voice is charming - it isn't sultry or smooth, but it has personality and energy. If you'd like to hear Iva's voice for yourself, you can hear it in a film she recorded for the Army in 1945, which you can find on the History on Trial instagram or online.

The direct examination went smoothly until Collins began questioning Iva about her time in Japan. The prosecution immediately began objecting that this testimony was irrelevant, and Judge Roche once again agreed, so the background about the military and police harassment Iva had faced and the terrible conditions she had heard about

⁶¹ Duus, 197-198.

⁶² Duus, 199.

⁶³ Duus, 200.

⁶⁴ Duus, 203.

⁶⁵ Duus, 205.

from the POWs was all excluded.⁶⁶ Without hearing this information, the jury had little chance of understanding Iva's circumstances when she took the broadcasting job.

Iva was, however, allowed to testify about how she was not allowed to quit the program. When she had tried to, she said, her army supervisors told her she was not permitted to.⁶⁷ She also testified that her only reason for working on the program was to, quote, "stick by the POWs."⁶⁸ She explained how she had consistently resisted helping the Japanese war effort, despite constant pressure, by refusing to buy war bonds or give to the Japanese Red Cross.⁶⁹

Collins then walked Iva through the statements that the prosecution's witnesses had claimed to have heard her say. Iva denied making each statement. Then Collins read through the indictment, asking Iva: "did you...at any time...adhere to our enemies, the Imperial Japanese Army?" "Never." "Did you ever do any act whatsoever with the intention of betraying the United States?" "Never." "Did you at any time whatsoever commit treason against the United States?" "Never."⁷⁰

By the end of the three and a half day direct examination, Iva was shaking with exhaustion and emotion. She had suffered a recurrence of dysentery a month earlier, causing a brief delay in the trial, and her strength was low.⁷¹ Now she had to endure a cross-examination which would last for an additional three days.

DeWolfe pushed Iva to specify what kind of duress she had experienced. "You were not forced by physical force, Mrs. D'Aquino, to go on the air and broadcast, were you?" "Not forced, just fearful," Iva replied. "And, you were never jailed by the Japanese police authorities?" "No." "And, of course, you were never personally assaulted or beaten or whipped or suffered any physical torture, were you?" "No, there had never been any physical force."⁷²

This was likely the most damaging part of the cross-examination. For the rest of it, Iva largely managed to retain her composure, giving simple, straightforward answers.⁷³

After the cross examination ended, on the morning of September 15th, Wayne Collins asked Iva a final redirect question: "Mrs. D'Aquino, do you still want to be a citizen of

⁶⁶ Duus, 205.

⁶⁷ Kawashima, 118.

⁶⁸ Duus, 206.

⁶⁹ Kawashima, 118.

⁷⁰ Duus, 207-208.

⁷¹ Duus, 186.

⁷² Duus, 209.

⁷³ Duus, 210.

the United States?” It had been seven years since the State Department had prevented her from returning home on a repatriation ship, four years since the military had held her in jail for a year with no warrant and no explanation, a year since she had been taken into custody again in Japan and brought to the United States as a prisoner, and fifty-three days since her grueling trial had begun. But Iva did not waver. Did she still want to be a citizen of the United States? “Yes,” she said.⁷⁴

Four days later, on September 19th, the defense rested. Closing arguments would begin the next day.

U.S. Attorney Frank J. Hennessey delivered the first closing argument for the prosecution. Despite having earlier expressed doubts about the validity of the case, he now displayed no qualms about condemning Iva. “She was neither ordered, threatened, or coerced to broadcast...on the “Zero Hour” program beamed at American troops fighting in the South Pacific...She did not conspire with other prisoners of war to sabotage the defeatist propaganda aims of the broadcasts,” said Hennessey.⁷⁵

Attorney George Olshausen gave the defense closing argument. He reminded jurors that the government needed to prove their case beyond a reasonable doubt. He then walked through all of the ways in which the government’s case was lacking. He discussed the ulterior motives of two key prosecution witnesses, Mitsushio and Oki, saying “The witnesses were perjuring themselves to bring a conviction.”⁷⁶ He brought up the alleged bribery of Hiromu Yagi by Harry Brundidge. He pointed out that the testimony of the GIs was unreliable, noting the errors made in time differences and memories. Most importantly, he reminded jurors that none of the broadcast recordings or scripts that the prosecution produced had contained any treasonous material. In short, he showed how thin, if not nonexistent, the evidence really was. To conclude, Olshausen framed Iva in a new light, not as traitor but as patriot. “In effect,” he said, “she had really been working behind the enemy lines. I think she served the United States very well, and all she got for her trouble was a year in jail. The least—and the most—we can do at this time is to acquit her.”⁷⁷

Assistant Attorney General Tom DeWolfe delivered the prosecution’s final closing argument. In his May, 1948 memo, DeWolfe had written “the Government’s case must fail as a matter of law because the testimony of the Government will disclose that subject did not adhere to the enemy or possess the requisite disloyal state of mind.”⁷⁸ Further, he had written, all those who had known Iva during her time at NHK, quote, “will testify

⁷⁴ Duus, 210.

⁷⁵ Kawashima, 123.

⁷⁶ Kawashima, 124.

⁷⁷ Duus, 212.

⁷⁸ DeWolfe memo, 4.

to facts which show that subject was pro-American, wished to return to the United States and tried so to do prior to Pearl Harbor, attempted unsuccessfully to return to the United States in 1942, and beamed to American troops only the introduction to innocuous music recordings...[the] evidence likewise will show that subject was a trusted and selected agent of the Allied prisoners of war.”⁷⁹

But now, DeWolfe delivered a scathing denunciation of this same “subject,” Iva Toguri. He called her a “betrayers of her native land and a betrayer of her government in time of need.” He said she was “a female Benedict Arnold.”⁸⁰ Her trial, he told jurors, “should serve as warning to others” that “they cannot in an hour of great peril...adhere to the enemy with impunity.”⁸¹

With that, after two and a half months, the trial concluded. On September 26th, Judge Roche instructed the jury. Roche was exhausted - so tired that he had been regularly observed nodding off during the defense case.⁸² But he pulled together enough energy to read nearly fifty pages of instruction.

As Roche instructed the jury, the reporters in the back of the courtroom took an informal poll amongst themselves. The ten of them, who had watched nearly all of the trial, voted 9-1 that Iva would be acquitted.⁸³

The jury was sent to deliberate. The hours ticked by with no result, and at eleven PM, the jurors told Roche they were going to pause for the night and resume in the morning. They returned at 9AM the next day, September 27th, and debated all day, periodically coming to the courtroom to ask for copies of exhibits or transcripts of testimonies. At 10:04pm, the whole jury came into the courtroom, and jury foreman John Mann informed Judge Roche, “We cannot reach a unanimous verdict.”⁸⁴

Judge Roche was not going to accept that answer. “This is an important case,” he told jurors. “The trial has been long and expensive to both the prosecution and the defense. If you should fail to agree on a verdict, the case is left open and undecided. Like all cases it must be disposed of some time.”⁸⁵ He told the jurors to return the next morning and try again.⁸⁶

⁷⁹ DeWolfe memo, 4.

⁸⁰ Kawashima, 124.

⁸¹ Duus, 213.

⁸² Kawashima, 116, and Duus, 210.

⁸³ Kawashima, 125.

⁸⁴ Duus, 215-216.

⁸⁵ Kawashima, 126.

⁸⁶ Duus, 216-217.

A decision was not forthcoming. The jurors spent all of September 28th arguing, only stopping at 8:00PM. September 29th was much the same, but around 5:30, the jurors returned to the courtroom. They wanted clarification on a portion of Roche's instructions. Roche had said, quote, "Acts of an apparently incriminating nature, when judged in the light of related events, may turn out to be acts which were not of aid and comfort to the enemy." The jury wanted to know what "related events" meant in this context.⁸⁷ Roche basically refused to answer the question, telling the jury that they should not pay attention to any specific part of the instructions, but instead consider the instructions as a whole. Then he told the jury that he was hungry, that it was time for the dinner break, and that they should pause their deliberations for the day.⁸⁸

But the jury did not want to have to start again in the morning. They wanted to be done. Only 30 minutes later, after nearly four full days of deliberation, the jury returned to the courtroom with a verdict. In the case of the United States v. Iva Toguri d'Aquino, on the charge of treason, the defendant had been found GUILTY.⁸⁹

ACT IV

Iva did not react when she was found guilty of treason.⁹⁰ She seemed to be dazed. She turned to her lawyers and said, "I just can't believe it."⁹¹

The jury had found Iva not guilty on seven of the eight counts of treason. But they had found her guilty on the 8th, which charged her with having broadcast this familiar phrase, referenced by Mitsushio and Oki and Lee: quote, "Orphans of the Pacific, you are really orphans now. How will you get home now that your ships are sunk."⁹²

The government was happy with the outcome, with Tom DeWolfe saying, quote, "The United States feels that the verdict was a just one."⁹³ But many other people seemed unhappy with the verdict...including the jurors.⁹⁴ Speaking to the Associated Press, jury foreman John Mann said that the jury had wanted to free Iva, and, quote "If it had been possible under the judge's instructions, we would have done it."⁹⁵

⁸⁷ Duus, 217.

⁸⁸ Duus, 217.

⁸⁹ Duus, 218.

⁹⁰ Associated Press, "'Tokyo Rose' Is Found Guilty of Treason; Appeal Planned," September 30, 1949, as printed in *The St. Louis Star and Times*, St. Louis, Missouri, September 30, 1949.

<https://www.newspapers.com/image/205190193/?match=1&terms=Tokyo%20Rose>

⁹¹ Duus, 219.

⁹² Duus, 218.

⁹³ Duus, 219.

⁹⁴ Associated Press, "Tokyo Rose Convicted As Traitor; Federal Court Jury Apologizes," September 30, 1949, as printed in *The Troy Messenger*, Troy, Alabama, September 30, 1949.

<https://www.newspapers.com/image/552228574/?terms=Tokyo%20Rose&match=1>

⁹⁵ Duus, 219.

The full picture of the jury deliberations reveals just how much Judge Roche's actions influenced the verdict. On the first ballot, the jurors had voted 10 to 2 to acquit on all charges. However, after further discussion of whether or not Iva had intended to betray the United States, the vote shifted to six to six. By the next day, after nearly 20 hours of deliberation, the jury felt that they could not reach a unanimous verdict. However, when they shared this position with Judge Roche, he did not accept it. Instead, he gave them a lecture about how expensive the trial was, how it would have to be decided sometime, and how the jurors ought to keep working on the problem.⁹⁶

This kind of instruction – in which a judge tells a hung jury that they should reach a verdict– is not uncommon. It is known as an Allen charge, after the 1896 Supreme Court case that allowed for this type of instruction.⁹⁷ Since this ruling, states have come to different conclusions on whether or not their courts will allow Allen charges, and, if they will, what language judges are allowed to use in issuing the charge.⁹⁸

The specific type of Allen charge that Judge Roche delivered would likely not be allowed in California today. A 1977 California Supreme Court case, *People v. Gainer*, ruled that it was improper for judges to discuss, among other things, quote “the expense or inconvenience of a retrial [or] the statement that the case must at some time be decided”⁹⁹ *Gainer*, as well as numerous other cases across the country, ruled that expense or inconvenience should be irrelevant to a jury's decision, which should be based only on the evidence and arguments presented in court.¹⁰⁰ The idea that a case will inevitably be decided–another argument Roche used with the jurors– is prohibited under *Gainer* because it is legally incorrect – the government may at any point decide not to retry a case that ended in a mistrial.¹⁰¹ In a 2020 panel on Iva's trial, U.S. District

⁹⁶ Duus, 219.

⁹⁷ “Allen charge,” Legal Information Institute, Cornell Law School, last updated November 2021.

https://www.law.cornell.edu/wex/allen_charge, <https://supreme.justia.com/cases/federal/us/164/492/>,

⁹⁸ Caleb Epperson, “The Future of the Allen Charge in the New Millennium,.” in *Arkansas Law Review*, Vol. 75, Number 1 (May 2022), 109-161.

<https://scholarworks.uark.edu/cgi/viewcontent.cgi?article=1161&context=alr>

⁹⁹ Charles Bundren, “California Abolishes an Allen Charge That Encourages a Juror to Consider Majority Opinion in Forming Individual Views on an Issue, Implies That a Case Will Have to Be Retried if the Jury Fails to Agree, or Refers to the Expense or Inconvenience of the Trial. *People v. Gainer*, 19 Cal. 3d 835, 566 P.2d 997, 139 Cal. Rptr. 861 (1977.” *Texas Tech Law Review*, Vol. 9 (1978), 653.

<https://ttu-ir.tdl.org/items/59fa2190-6813-4519-848c-6e2addbf423d>

¹⁰⁰ Bundren, 652-653. Other cases include *Missouri, K. & T. Ry. v. Barber*, 209 S.W. 394 (Tex. Comm'n App. 1919, jdgmt adopted). 69. See note 101, and *United States v. Burley*, 460 F.2d 998, 1000 (3d Cir. 1972).

¹⁰¹ Bundren, 652.

Court Judge Jon Tigar said that Judge Roche's charge would today be considered unconstitutional.¹⁰²

Though Roche's behavior was allowable at the time, it certainly exerted undue pressure on the jurors. After his charge, the jurors reluctantly went back to work, though their deliberations assumed a new tone. Instead of debating the facts of the case, the discussions became more emotion based. The two jurors who had originally favored conviction began appealing to the other jurors' feelings: imagine, they said, being a lonely soldier on a remote Pacific island, and hearing that your ships had been sunk. It would be awful. This argument worked on many of the jurors, who one by one switched their vote to convict.¹⁰³

Roche's final interaction with the jury also seems to have influenced the verdict. By late evening on September 29th, after four days of deliberation, the jurors were exhausted. The current vote was 9-3 to convict. The three holdouts were losing their will to push back – they had begun to feel, foreman John Mann later told reporter Katherine Pinkham, that by acquitting Iva they would perhaps be seen as traitors themselves.¹⁰⁴ But in a last ditch effort to strengthen their resolve, Mann sent a note to Roche asking for clarification on the instructions. Roche chose not to explain himself and simply told the jury to keep working. The holdouts, Mann said, gave up after that, and reluctantly agreed to vote to convict on one charge.¹⁰⁵ Mann had trouble living with the decision, and barely slept in the week between the verdict and the sentencing.¹⁰⁶

On October 6, Judge Roche sentenced Iva to ten years in prison and a \$10,000 dollar fine. This was a harsher sentence than most people had expected.¹⁰⁷ Roche's sentence may have been influenced by his own feelings about the case. Reporter Katherine Pinkham, who covered the trial, said that after the trial, Roche told her that the emotional letter read aloud by one GI, Marshall Hoot, had convinced him that Iva was guilty. He made other comments to Pinkham throughout the trial that indicated he thought Iva's going to Japan in 1941 was suspicious.

¹⁰² Nicholas Iovino, "Tokyo Rose: The Woman Wrongfully Convicted of Treason," *Courthouse News Service*, November 18, 2020.

<https://www.courthousenews.com/tokyo-rose-the-woman-wrongfully-convicted-of-treason/>

¹⁰³ Duus, 220. In a treason trial, as historian Yasuhide Kawashima notes in his book *The Tokyo Rose Case: Treason on Trial*, it is, quote, "the conduct itself that matters. The effectiveness of the propaganda broadcast, therefore, would not in any way aggravate or mitigate the offense," (103). Despite this, Judge Roche consistently allowed testimony about the propaganda's effectiveness – on both sides (see for example, the testimony of Marshall Hoot and the testimony of the intelligence officer), though the prosecution seems to have been more successful in eliciting emotionally evocative testimony.

¹⁰⁴ Duus, 220.

¹⁰⁵ Duus, 220.

¹⁰⁶ Duus, 220.

¹⁰⁷ Kawashima, 134.

Five weeks later, on November 15th, Iva boarded a train in Oakland bound for the Federal Reformatory for Women in Alderson, West Virginia. Iva was a model prisoner, working in the prison infirmary, and eventually training as a laboratory assistant.¹⁰⁸ Her lawyers filed constant appeals on her behalf, but all were rejected.¹⁰⁹ At the time of her sentencing, most people expected that she would serve only three to four years in prison.¹¹⁰ She served more than six. When her early release was considered, a wave of negative press condemned the idea of letting her out of prison. When Iva was finally released, on January 28th, 1956, a horde of reporters showed up at the prison gates and bombarded her with questions.

When asked where she was going next, Iva said, “I really don’t know. I’m going out into the darkness.” When asked if she maintained her innocence, Iva said “The trial and the feelings then are past. I hate to open up wounds.”¹¹¹

Unfortunately, she would have no choice but to open those wounds, because her battle was not yet over. On March 13th, after Iva had settled into her father Jun’s house in Chicago, the United States Immigration and Naturalization Service announced that Iva had to voluntarily leave the country within 30 days, or else be subject to deportation.¹¹² After her conviction, Iva had lost her American citizenship. Now, the government was declaring her an undesirable person and trying to deport her. Iva vowed to fight the decision. “This is my country!” she said in a press conference. “I was born here. I belong here. I’m going to stay.”¹¹³ Wayne Collins once again stood by her side, even moving Iva into his San Francisco home so that they could fight the case more efficiently.¹¹⁴ It would be more than two years before the matter was resolved: in July, 1958, the INS canceled the deportation order, saying they had nowhere to deport her to, since she held no other citizenship. Additionally, a recent Supreme Court ruling about convictions, citizenship, and deportation, had been interpreted to mean that Iva was not deportable.¹¹⁵

However, Iva’s citizenship was not restored. She was declared a stateless person. This meant that she could not get a passport, which had one major consequence: she could not see Felipe, her husband. Felipe, a Portuguese citizen living in Japan, had come to

¹⁰⁸ Kawashima, 149.

¹⁰⁹ For a discussion of these appeals, see Kawashima, 139-149.

¹¹⁰ Duus, 225.

¹¹¹ Associated Press, “Tokyo Rose Leaves Prison After Serving Treason Term,” January 28, 1956, quoted in the *Lubbock Avalanche-Journal*, Lubbock, Texas, January 29, 1956.

<https://www.newspapers.com/image/51073329/?match=1&terms=tokyo%20rose>

¹¹² Duus, 226.

¹¹³ Kawashima, 152.

¹¹⁴ Kawashima, 152.

¹¹⁵ “Tokyo Rose’ Case Ends,” *The New York Times*, July 11, 1958.

<https://timesmachine.nytimes.com/timesmachine/1958/07/11/79456556.html?pageNumber=3>. The case in question is *Trop v. Dulles*.

America to testify at her trial. Upon his arrival, the government had forced him to sign a document stating that he would not set foot on American soil again in exchange for being allowed to testify.¹¹⁶ Without a passport, Iva could not visit him in Japan. Felipe and Iva would never see each other again.¹¹⁷

For years, Iva lived in relative anonymity in Chicago, working as a clerk in her father's store. But every time a news article about Tokyo Rose cropped up, she would be inundated with hate mail and threatening phone calls.¹¹⁸ In 1969, TV journalist Bill Kurtis – who is now the announcer on NPR's *Wait, Wait, Don't Tell Me*, befriended Iva and convinced her to tell her story one more time. Kurtis's resulting program was sympathetic and thoughtful, but did not have a big enough reach to change Iva's national reputation.¹¹⁹

However, in the mid-1970s, public opinion began to change. During Iva's trial, Japanese-American community organizations had distanced themselves from her, afraid of being accused of supporting a traitor. But as anti-Japanese sentiment cooled somewhat in the intervening decades, the Japanese American Citizens League, or JACL, took a new look at her case. In 1974, the JACL sent a formal letter of apology to the Toguri family, and promised to help advocate for Iva's exoneration. In September 1975, the JACL published a booklet entitled *Iva Toguri (d'Aquino): Victim of a Legend*, which told Iva's story. The booklet declared that Iva was, quote, “a victim of a World War II fantasy—a powerful and persistent legend that continues to plague her today, some 30 years later.”¹²⁰

Six months later, in March 1976, Ronald Yates published his bombshell expose of the prosecution witnesses in the *Chicago Tribune*. His article revealed that many of these witnesses, including George Mitsushio and Kenkichi Oki, had been pressured by the government into lying on the stand.¹²¹

Since Iva's release from prison, her lawyers had petitioned for Iva to receive a presidential pardon. Now, momentum for the pardon grew. The California state assembly and state senate passed resolutions supporting her pardon. Veterans'

¹¹⁶ Ronald Yates, “Tokyo Rose ‘just a scapegoat’: husband,” *Chicago Tribune*, March 23, 1976. <https://www.newspapers.com/image/382219407/?match=1&terms=d%27aquino>

¹¹⁷ Duus, 224.

¹¹⁸ Kawashima, 155.

¹¹⁹ Clarence Petersen, “TV Today: Tokyo Rose, Now a Chicagoan, Gets to Tell Story on Air,” *Chicago Tribune*, November 5, 1969.

¹¹⁹ <https://chicagotribune.newspapers.com/image/376877106/?terms=%22bill%20kurtis%22%20%22tokyo%20rose%22&match=1>

¹²⁰ National Committee for Iva Toguri, *Iva Toguri (d'Aquino): Victim of a Legend* (San Francisco: Japanese American Citizens' League, 1976), 1.

¹²¹ Yates, “Tokyo Rose's accusers.”

associations supported the movement and the press, who had spent years condemning Iva, now took up her cause.¹²² On the morning of January 19th, 1977, the day before he was due to leave office, President Gerald Ford signed the necessary documentation. The Justice Department announced that Iva had received a full and unconditional pardon. As a result, she could once again be a United States citizen.

Iva was delighted. Unfortunately, the pardon came too late for some of her closest supporters to celebrate alongside her. Her beloved father, Jun, had died in 1972 at age 90. He had left his daughter a final gift: though she had begged him not to, he had stipulated in his will that his estate be used to pay the remains of the \$10,000 dollar fine that Roche had sentenced Iva to pay.¹²³ A year later, her lawyer Theodore Tamba died of a heart attack, aged 72, and a year after that, Wayne Collins died suddenly on a flight, aged 74.¹²⁴ His son, Wayne Collins Jr., who had first met Iva as a child while she lived in his home during her deportation fight, took over her case.¹²⁵

Reflecting on her ordeal to historian Masayo Duus in the late 70s, Iva was remarkably gracious. “I have no regrets,” she said, “and I don’t hate anyone for what happened.”¹²⁶

Personally, I have a hard time being so generous. I try to stay reasonably objective while researching these cases, but I hope you’ll understand why I had a hard time maintaining distance while learning about Iva’s story. At times, while reading about the constant persecution that Iva endured - seeing again and again the way that the government abused its power, twisted evidence, and subverted justice, all in a misguided attempt to satisfy public pressure, I was overwhelmed by rage and grief.

At every step of the way, there were people who knew that what was happening was wrong. The military investigators who held Iva without charge or access to a lawyer in 1946 found no evidence against her. The lead FBI agent in Iva’s investigation, Frederick Tillman, discovered that Harry Brundidge bribed a witness. The prosecutors, Frank Hennessey and Tom DeWolfe, both believed that there was not enough evidence to bring the case to trial. Multiple witnesses chose to lie out of fear. At many points, as this unjust campaign against Iva continued, any number of people could have stepped up and tried to stop it. But none of them did.

¹²² For documents related to the pardon process, see the collection of the Gerald R. Ford Presidential Library, including these documents from Box 4, folder “Clemency – Rose, Tokyo,” of the Philip Buchen Files. <https://www.fordlibrarymuseum.gov/library/document/0019/4520452.pdf>

¹²³ Kawashima, 154.

¹²⁴ Duus, 231,

¹²⁵ Duus, 231.

¹²⁶ Duus, 231.

I don't want to portray Iva as a perfect person – she, like all people, was complicated. She was naive – naive about her role at NHK, naive about the way others might view her work or how that work might impact people, naive about the potential downsides of press attention. But it's hard to compare the sin of naivete to the sin of pursuing a prosecution based on perjured and coerced testimony.

Iva was pardoned, yes, but a pardon is not an exoneration. The government has never said that Iva's case was a miscarriage of justice. They have never declared her innocent – though no evidence has ever been found to show that she was guilty. The FBI, whose investigation of Iva was instrumental in her prosecution, maintains a webpage about her case which makes no mention of the coerced testimony and describes her as, quote, “voluntarily” staying in Japan during the war.¹²⁷

As many of those who knew Iva personally remarked, one of the grimmest ironies of the case is how faithfully Iva loved the United States. One of her NHK colleagues, who had testified against her, told Ronald Yates, quote: “It was [her] flair for patriotism that proved [to be] her downfall.”¹²⁸ As Wayne Collins put it, “It can be truly said that the United States government abandoned and betrayed her rights, but she did not abandon the United States.”¹²⁹

Fortunately, another group of patriots did eventually recognize Iva's service. In January 2006, the American Veterans Center's World War II Veterans Committee presented 89 year old Iva with its Edward J. Herlihy Citizenship Award.¹³⁰ Ronald Yates, the Chicago Tribune reporter who had done so much to clear Iva's name, accompanied her to receive the award. Iva told Yates that this day, where her steadfast support for the United States was finally recognized, was the most memorable day of her life.¹³¹ Two months later, on September 26th, 2006, 90 year old Iva Toguri D'Aquino passed away.¹³²

Though Iva acknowledged the damage caused by her trial, telling Masayo Duus, quote, “My life has been very lonely. They robbed me of the most important part of it,” she tried to focus on the future, not the past. “You can either sit in a room and feel sorry for

¹²⁷ “Iva Toguri D'Aquino and “Tokyo Rose,”” Federal Bureau of Investigation. <https://www.fbi.gov/history/famous-cases/iva-toguri-daquino-and-tokyo-rose>

¹²⁸ Yates, “Tokyo Rose's accusers,”

¹²⁹ Duus, 223.

¹³⁰ Valerie J. Nelson, “Convicted as ‘Tokyo Rose,’ She Later Received Honors,” *Los Angeles Times*, September 28, 2006. <https://www.latimes.com/archives/la-xpm-2006-sep-28-me-rose28-story.html>

¹³¹ Adam Blenford, “Death ends the myth of Tokyo Rose,” *BBC News*, September 28, 2006.

(<http://news.bbc.co.uk/2/hi/americas/5389722.stm>) and American Veterans Center, “Setting the Record Straight,” *WWII Chronicles*, Issue XXXIII, Winter 2005, <https://americanveteranscenter.org/avc-media/magazine/wwiichronicles/issue-xxxiii-winter-200506/setting-the-record-straight/>.

¹³² Blenford, “Death ends the myth.”

yourself or you can go outside and look ahead. I've tried to look ahead," she said.¹³³ Her attitude is a beautiful and admirable one. But her story also reminds us of the importance of looking back and learning about the past. Stories like Iva's, as heartbreaking as they are, are crucial components of American history – and we should not forget them.

Thank you for listening to History on Trial. My main sources for this episode were Masayo Duus's book *Tokyo Rose: Orphan of the Pacific* and Yasuhide Kawashima's book *The Tokyo Rose Case: Treason on Trial*. Special thanks to the Gerald Ford Presidential Library for providing me with a copy of Tom DeWolfe's May 1948 memo, and to Dion and Hugo Hagan for Japanese language assistance. For a full bibliography as well as a transcript of this episode with citations, please visit our website, historyontrialpodcast.com.

¹³³ Duus, 230-231.