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Eric L. Muller

University of North Carolina School of Law, emuller@email.unc.edu

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APOLOGIES OR APOLOGISTS? REMEMBERING THE JAPANESE AMERICAN INTERNMENT IN WYOMING

*Eric L. Muller**

Between 1942 and 1945, the third-largest city in Wyoming was surrounded by barbed wire, searchlights, and armed sentries. It was the Heart Mountain Relocation Center in Park County, the wartime home to some 11,000 people of Japanese ancestry who had been forced from their west-coast homes in the wake of the Japanese attack on Pearl Harbor. Today the site is without a doubt Wyoming's biggest ghost town: all that remains of this once-bustling place is a tall brick chimney and a couple of collapsing buildings. Memories of the camp are disappearing too: Any person old enough to have even a moderately reliable recollection of the camp is now of retirement age. In the not-too-distant future, these memories will pass on with those who lived them.

Fortunately some people are working to preserve what remains of the camp and its stories before they disappear. An energetic organization called the Heart Mountain Wyoming Foundation is raising funds and making plans for a museum on the site. Filmmakers,¹ novelists,² and scholars³ are gathering, recording, and interpreting the memories of those who were interned there. But perhaps most notably, Jim Geringer, the Governor of Wyoming, recently took the step of publicly acknowledging that officials of the State of Wyoming played a role in the sad story of the internment. James L. Milburn, the mayor of the neighboring town of Powell, joined the governor in his statement. Together they stressed the importance of remembering what Wyoming officials did to

* Professor, University of North Carolina School of Law. My thanks go to Carol Bowers, an archivist at the American Heritage Center in Laramie, Wyoming, for her research help, and to Roger Daniels, Joe Kennedy, and Maureen Ryan for helpful comments on a draft.

1. See generally RABBIT IN THE MOON (Transit Media 1991) (film by Emiko Omori); and CONSCIENCE AND THE CONSTITUTION (Frank Abe & Independent Television Service 2000) (film by Frank Abe).

2. GRETEL EHRLICH, HEART MOUNTAIN (1988).

3. See ERIC L. MULLER, FREE TO DIE FOR THEIR COUNTRY (forthcoming 2001); REMEMBERING HEART MOUNTAIN: ESSAYS ON JAPANESE AMERICAN INTERNMENT IN WYOMING (Mike Mackey ed., 1998); I-V JAPANESE AMERICAN WORLD WAR II EVACUATION ORAL HISTORY PROJECT (A. Hansen ed., 1991).

support the incarceration of Japanese Americans at Heart Mountain, and of working to prevent such a thing from happening again. If, as Milan Kundera has written, “the struggle of man against power is the struggle of memory against forgetting,”⁴ then the governor and the mayor deserve praise for speaking with the voice of power in the cause of remembering.

Their statement is, however, a curious one. To be sure, they call upon us to remember, but in the same breath they urge us not to judge or condemn the actions we recall. This essay takes seriously their invitation to remember. It documents the response of Wyoming’s two wartime governors, Nels Smith and Lester Hunt, as well as local officials in Park County, to the federal government’s decision to uproot and relocate the Japanese and Japanese Americans of the west coast during World War II. In telling this story, however, the essay defies the advice against judging the actions of Wyoming’s wartime leaders. Judgment is, in fact, precisely what is called for. Their actions were racist and xenophobic, and they ought to be labeled as such. The germ of racial oppression grows most aggressively in a culture of suspended moral judgment. If we do not condemn these old acts of intolerance, we create the conditions for new ones.

* * *

On September 16, 2000, more than 600 surviving internees from Heart Mountain gathered in Seattle for their annual reunion. There they heard what was presented to them as an “unprecedented letter of healing”⁵ co-signed by Governor Geringer and Mayor Milburn. The letter reads as follows:

Dear Former Heart Mountain Camp Residents and Families:

We wish to acknowledge the difficulties and hardships faced by internees and the lack of consideration given to those at the Heart Mountain Relocation Center.

In viewing the historical records from 1943 and 1944, we are all saddened to see the negative sentiments and restrictions that elected officials imposed during that time. Those officials felt compelled to adopt and enforce regulations on the internees housed at the Heart Mountain Relocation Center between Powell and Cody.

4. MILAN KUNDERA, *THE BOOK OF LAUGHTER AND FORGETTING* 3 (Michael H. Heim trans., 1980).

5. Ike Hatchimonji, *Wyoming Reconciles*, *PACIFIC CITIZEN*, Oct. 20-Nov. 2, 2000, at 9.

We do not judge and cannot rectify those official decisions and actions that took place in the 40's knowing that we cannot change history, but we can learn from the past.

*Today our citizens understand more clearly that each one of us is entitled to the rights of freedom, equality, and justice, regardless of ancestry. It is our hope and prayer that a similar situation is never repeated, and that we can work together to see that it does not happen again.*⁶

The letter was warmly received in the Japanese-American press. One editorialist praised the governor for “his honesty in expressing his state’s *mea culpa* for the mistakes of the past”—an honesty that “demonstrates the governor’s courage and sense of justice.”⁷ “The expression of regret of a governor for wrongful acts committed in the past,” he wrote, “is admirable and should be considered as a sincere act of reconciliation for those who spent those dark years at Heart Mountain.”⁸

Certainly the general tone of the letter is earnest, its mood contrite. One gets the sense that it is attributing accountability for something to someone. But let us look more closely at the words. Who exactly is responsible for the “lack of consideration given to those” incarcerated at Heart Mountain, the “negative sentiments and restrictions” that greeted them in this state? The letter’s first paragraph dodges the issue of responsibility with deft use of the passive voice: a “lack of consideration” was merely “given” to the internees—by whom we do not know. The second paragraph inches closer to attributing responsibility: it reports that certain unnamed “elected officials” were the ones who imposed “negative restrictions and sentiments” on the internees. But in its very next sentence, the letter gingerly backs away from blame, quickly adding that these restrictions were measures that the elected officials “felt compelled” to impose. Again the passive voice quietly absolves. Something, or someone, compelled the officials to act as they did—but what? Who?

And let us attend for a moment to the passive verb itself: Wyoming’s elected officials felt not “persuaded” nor even “urged” to impose restrictions on the internees, but affirmatively “compelled” to do so. A compelled act is an involuntary act—something imposed on the actor

6. Letter from Governor Jim Geringer and James Milburn, Mayor of Cody, Wyoming, to Heart Mountain internees and their families (Aug. 30, 2000) (on file with author).

7. Hatchimonji, *supra* note 5, at 9.

8. *Id.*

from outside him. It is something he has not freely chosen, and therefore something for which he is not truly responsible.

To be sure, the letter says not that Wyoming officials actually *were* compelled to act as they did, just that they *felt* compelled to do so. This mention of “feeling” restores at least a hint of free will to their actions. If they merely “felt” compelled to oppress the internees at Heart Mountain, they might also have “felt” otherwise. To the extent that they were mistaken in “feeling” compelled, the letter seems to imply, they might be accountable.

But no sooner does the letter imply accountability than it effaces it. “We do not judge,” says the letter, “and cannot rectify those official decisions and actions that took place in the 40s.” And why do we not judge? Because we “know[] that we cannot change history.” Surely this is a poor reason to refrain from judgment. Much as we might like to, we cannot change even the darkest moments of history. We cannot reach back in time and prevent the enslavement of black Africans, the gassing of Europe’s Jews, or the bombing of the Alfred P. Murrah Federal Building in Oklahoma City. But this is no reason not to condemn slavery, the Holocaust, and domestic terrorism. If there is a good reason to refrain from judging the conduct of Wyoming’s wartime leaders, it must be that their acts of oppression do not actually deserve our condemnation—that they were somehow justified or excusable.

Let us examine the record.

On March 5, 1942, Governor Nels Smith received a letter from Kenneth Kellar, a lawyer and an old family friend. Kellar wished to make his views known on “the Japanese question”—the question of what to do with the Nikkei of the West Coast in the wake of the attack on Pearl Harbor. (The term “Nikkei” refers to people of Japanese ethnicity. At the time of World War II, the Nikkei in American included the generation of immigrant aliens called the “Issei” and their American-born citizen children, the “Nisei.”) Kellar counseled a “coldblooded and ruthless” solution to the problem: “[A]ll Japanese,” he argued, “should be evacuated from the Coast, their women and children placed in concentration areas and treated properly, and every able-bodied male drafted into labor battalions and sent North to build the Canada to Alaska highway, at the point of a bayonet if necessary.” Governor Smith scribbled his response across the bottom of Kellar’s letter: “Thanks for the letter. I see you like the Japs about as well as I do.”⁹

9. Letter from Kenneth C. Kellar to Governor Nels H. Smith (Mar. 4, 1942) (on

Constituent mail may not be the best place to look for complete candor from an elected official, but in this instance Governor Smith's response was heartfelt—an expression of an abiding conviction that the Nikkei of the West Coast were, to use Smith's words from another piece of correspondence, a "menace" that the federal government was looking to "spread[] . . . from one part of the country so that it permeates the entire nation."¹⁰ He spelled out his xenophobic fears in another letter in April of 1942:

I could very clearly visualize the West Coast Japanese percolating into our State, a few at a time, gradually taking over jobs which by right should be done by our own citizens; becoming public charges and an added burden upon our State and County Welfare Departments; purchasing farms and gradually crowding from our most fertile districts our own Wyoming farmers and ranchers, and at the conclusion of the war remaining with us and creating for us a Japanese problem similar to the one the West Coast States, particularly California, now have.¹¹

Thus, when the military made the decision in the spring of 1942 to evict the Nikkei from their West Coast homes, and began to search for places in the interior where they might live and work, Nels Smith worked feverishly to keep them out of Wyoming. As he bluntly stated in a telegram to the Attorney General of the United States, "the State of Wyoming[,] while willing to render every assistance in our war program[,] cannot acquiesce to the importation of the Japanese into our state."¹²

Governor Smith ultimately did acquiesce in this plan of "importation," but not before extracting a major concession from the federal government, one that was to inflict daily suffering on those who were imported. The federal agency charged with responsibility for relocating the West Coast's Japanese population was called the War Relocation Authority, or "WRA." It sprang into existence in the middle of March 1942, with Milton Eisenhower, the future President's brother, at its

file with the American Heritage Center, Laramie, Wyoming: Nels H. Smith Collection, Acc. 9880, Box 3, Folder 5).

10. Letter from Governor Nels H. Smith to Al Kay, Cheyenne City Commissioner (Mar. 30, 1942) (on file with the American Heritage Center, Laramie, Wyoming: Nels H. Smith Collection, Acc. 9880, Box 3, Folder 5).

11. Letter from Governor Nels H. Smith to Chester Ingle, Jr., Hot Springs County Attorney (April 22, 1942) (on file with the American Heritage Center, Laramie, Wyoming: Nels H. Smith Collection, Acc. 9880, Box 3, Folder 5).

12. Telegram from Governor Nels H. Smith to Francis Biddle, United States Attorney General (Feb. 21, 1942) (on file with the American Heritage Center, Laramie, Wyoming: Nels H. Smith Collection, Acc. 9880, Box 3, Folder 5).

helm. Eisenhower was immediately confronted with a set of staggering logistical problems: how to remove 110,000 people, 60% of them American citizens, from an enormous military zone along the West Coast, where to put them for the duration of the war, and how to occupy and sustain them in their new locations? Eisenhower's idea was a program modeled loosely on the Civilian Conservation Corps: evacuees¹³ would be transported inland to small, open "reception centers" in areas of agricultural and manufacturing need. These camps would serve as staging areas through which the evacuees would pass on their way to private jobs. The WRA chief knew that wartime labor shortages, especially in the agricultural sector, would create a strong demand for evacuee labor, and envisioned a program that would simultaneously bolster the economies of the Mountain States while helping the Japanese population of the West Coast transition to a new life.¹⁴

Eisenhower knew that his plan hinged, to a great extent, on some measure of hospitality from the states that would host the reception centers. He therefore scheduled a meeting with the governors and attorneys general of the Mountain States for April 7, 1942, in Salt Lake City, to air his plan and solicit what he hoped would be their support. He was bitterly disappointed: most of the western governors wanted no part of the WRA's plan. And among the most strident in rejecting the federal proposal was Nels Smith. Surviving notes of the Salt Lake City meeting reveal that Smith objected "that the Japanese would overrun his state if given the opportunity."¹⁵ Wyomingites "have a dislike of any Orientals," he explained, "and simply will not stand for being California's dumping ground." Smith insisted that "if [the Japanese] were brought in at all, [they] should be kept in 'concentration camps—not reception centers,' should be worked under guard, and should be removed at the end

13. I use the word "evacuee" because that was the word used at the time. It was, however, pure euphemism. A person who is "evacuated" is removed from a place to keep him out of harm's way—out of the path of an approaching hurricane, for example. The Nikkei of the West Coast were not removed from their homes and transported inland for their own protection; they were evicted and transplanted for the benefit of others.

14. See Conference, *Conference on Evacuation of Enemy Aliens, Salt Lake City*, Records of the Japanese Evacuation and Resettlement Study, microformed on C1.03, 67/14C, file 1 of 3 (Apr. 7, 1942) (on file with the Bankcroft Library, University of California at Berkley) (comments of Milton Eisenhower); MILTON S. EISENHOWER, *THE PRESIDENT IS CALLING* 118 (1974).

15. War Relocation Authority, *Report on Meeting, April 7, at Salt Lake City, with Governors, Attorneys General, and Other State and Federal Officials of 10 Western States*, in Records of the Japanese Evacuation and Resettlement Study 20, microformed on C1.03, 67/14C, file 1 of 3 (on file with the Bankcroft Library, University of California at Berkley).

of the emergency.”¹⁶ And these were just Smith’s public comments. In private he was even more emphatic. During a break in the proceedings, Eisenhower recalls that Smith approached him, “shook his fist in [his] face, and growled through clenched teeth: ‘If you bring the Japanese into my state, I promise you they will be hanging from every tree!’”¹⁷

The next day, in a letter to Attorney General Francis Biddle, a demoralized Milton Eisenhower called the Salt Lake City meeting “tragic.” “The whole picture,” Eisenhower said, “is much worse than anyone in Washington can imagine. We are going to have to fight every step of the way to do a decent job.”¹⁸ Back in Wyoming, Governor Smith continued his side of the fight, working to close Wyoming’s borders to Japanese families that had left the coast voluntarily, without waiting to be evacuated. Two weeks after the Salt Lake City meeting, he fielded an inquiry from the Hot Springs County Attorney in Thermopolis about three such families who were seeking to relocate there. Governor Smith responded that “we should all of us refuse to grant permission to these people to migrate into our state”—a stance that he predicted would “tend to keep most of them out.”¹⁹ Smith reasoned that “[i]f these people come into our State under Federal supervision, on a Federal reserve, under guard, control and maintenance of the Federal Government, with the understanding that they be removed after the War, they will not then become citizens of Wyoming, and our chances of getting rid of them at the end of the War will be much better.”²⁰

Because 1942 was a gubernatorial election year, we might speculate that there was a touch of partisanship to the Republican governor’s opposition to the plans of a Democrat president’s agency.²¹ This was, however, not the case: opposition to the federal plans in Wyoming was

16. *Id.*

17. EISENHOWER, *supra* note 14, at 118.

18. Letter from Milton Eisenhower, Director of the WRA, to Francis Biddle, United States Attorney General (April 8, 1942) (on file with the Bancroft Library, University of California at Berkeley: Records of the Japanese Evacuation and Resettlement Study, *microformed* on C1.03, 67/14C, file 1 of 3).

19. Letter from Governor Nels H. Smith to Chester Ingle, Jr., Hot Springs County Attorney (April 22, 1942) (on file with the American Heritage Center, Laramie, Wyoming: Nels H. Smith Collection, Acc. 9880, Box 3, Folder 5).

20. *Id.*

21. The risk of a partisan cast to the issue was enhanced on March 6, 1942, when J.B. Griffith, the chairman of the state’s Republican Party took the unusual step of publicly endorsing the Republican governor’s stand. “I am opposed to the federal government duping the alien Japs into Wyoming upon any pretext whatsoever,” said Griffith, “and agree thoroughly with Governor Nels Smith in the firm stand he has taken in the matter.” *Griffith Scores Plan to Import Alien Japanese*, WYOMING EAGLE, Mar. 6, 1942, at 3.

fully bipartisan. In March of 1942, as rumors began to fly about the possibility that the federal government might bring Japanese from the West Coast into Wyoming, the *Riverton Review* published a story implying support for such a plan on the part of Lester Hunt, Governor Smith's likely opponent in the 1942 gubernatorial election. Hunt, however, quickly declared that he too was "greatly opposed" to the "importation" of Japanese people into Wyoming. "I have never made any suggestion as to the movement of aliens to the state, and I am, as a matter of fact, greatly opposed to any such movement unless such aliens are kept under strict federal control."²²

Wyoming's newspapers lauded its political leaders for their stand. An editorial in the *Wyoming Eagle* in March of 1942 asserted that there was "no reasonable basis for dissent" from Governor Smith's stand against the importation of the Nikkei, and, pointing to Hunt's position, noted that "[t]here is nothing of politics, much less partisan politics, connected with the issue." "We do not believe it is the desire or intention of the citizens that Wyoming shall be converted into a melting pot of this nature," the paper asserted. "If the federal government wants to establish concentration camps in Wyoming and keep enemy aliens there under guard, the state will cooperate in every way," the editorial stated, "[b]ut the government should assume full responsibility for policing the camps, for maintaining the inmates, and give assurance that the aliens will be removed from the state after the emergency."²³

Confronted with this sort of resistance, Eisenhower had little choice but to abandon his hope for open-gated waystations to resettlement and assimilation for the evacuees in the Mountain West. As Governor Smith insisted in Salt Lake City, it would be "concentration camps, not reception centers" for the West Coast evacuees: gated enclosures, barbed wire, guard towers with armed sentries and searchlights, and, at the end of the ordeal, a forced return to the coast. Thus, the real responsibility for the day-to-day conditions under which the evacuees ended up enduring their wartime confinement lay with Wyoming's political leaders—especially its governor—along with the leaders of most of the surrounding states who voiced nearly identical views.²⁴ Roger Daniels, the leading historian of the internment, makes the point succinctly: "If the active racism of the West Coast was the initial catalyst for evacuation

22. *Hunt Opposes Importation of Japanese*, WYOMING EAGLE, Mar. 4, 1942, at 17.

23. *No Melting Pot*, WYOMING EAGLE, Mar. 5, 1942, at 7.

24. For accounts of Idaho Governor Chase A. Clark's reaction to the WRA's plans, see MULLER, *supra* note 3 at 32-33, 124-25, and Robert C. Sims, *A Fearless, Patriotic Clear-Cut Stand: Idaho's Governor Clark and Japanese American Relocation in World War II*, PACIFIC NORTHWEST QUARTERLY 75 (April 1979).

and the more passive racist climate of the nation as a whole the precondition for its acceptance, the racism of the interior West was the final determinant of WRA policy."²⁵

Once the WRA settled upon a tract in the Shoshone Irrigation District in Park County as the site for its Wyoming camp and began planning its construction, attitudes about having an internment camp in Wyoming began to shift toward support of the idea. This shift did not come from any change in public opinion on the desirability of a large ethnically Japanese population within Wyoming's borders. On the merits, it seemed, nobody favored that. "Ten Thousand Is A Lot of Japanese" was the frosty headline of the Powell Tribune's front-page story announcing the creation and the likely population of the Heart Mountain Relocation Center.²⁶ An editorial in that same day's paper offered its readers the comforting "assurance that all Japanese brought here will be returned to the coast following the war."²⁷ These items from the newspaper suggest that the Wyoming welcome that the surrounding communities were prepared to offer the internees was not an especially warm one.

The shift in public opinion came instead from a recognition that the internment camp would confer an economic benefit by bringing to Park County, in the words of the *Powell Tribune*, the "many thousands of government dollars that we have been crying for."²⁸ The first wave of internment-based prosperity came immediately, because in the space of a few weeks, Wyoming's third-largest city had to be built. Some 2000 construction workers swarmed into Northwest Wyoming to put up the camp,²⁹ triggering boom-town conditions in the surrounding communities. Every spare bed in town commanded sky-high prices, the restaurant owners could barely handle demand, and the tavern owners made the greatest killing of all.

Cody and Powell rolled out the red carpet for the construction workers. In an editorial explicitly directed to "you Relocation Center Workers," the *Powell Tribune* gushed, "Welcome, stranger! We're glad you came, and we hope many of you will make your stay permanent."

25. Roger Daniels, *Western Reaction to the Relocated Japanese Americans: The Case of Wyoming*, in *JAPANESE AMERICANS: FROM RELOCATION TO REDRESS* 114 (Roger Daniels et al. eds., 1991).

26. *Ten Thousand Is A Lot of Japanese*, *POWELL TRIBUNE*, May 28, 1942, at 1.

27. *Japanese To Be Interned Here*, *POWELL TRIBUNE*, May 28, 1942, at 4.

28. *Id.*

29. *See Workmen Gathering to Build City for Japanese*, *POWELL TRIBUNE*, June 11, 1942, at 1.

“The people who live here,” said the newspaper, “are all Americans. They speak the American language [and] have the best of American schools.” “Who knows,” the piece concluded, “you too may become a boosting resident of Wyoming’s Garden Spot.”³⁰ The irony in this invitation was undoubtedly lost on the editorialist: The strangers building the camp were welcome to stake their claim in this beautiful American terrain, but the strangers for whom they were building the camp were to be driven out at war’s end at the point of a federal gun.

The second wave of economic benefit was soon to follow. Park County merchants and suppliers, accustomed to serving the county’s roughly 10,000 residents, realized that the camp would instantly double their customer base. T. T. Dodson, owner of the Powell Valley Creamery, landed the valuable contract to supply all of Heart Mountain’s milk, an arrangement that made Dodson’s the third-largest creamery in the state and contributed many thousands of dollars a month to the income of dairy farmers throughout the region.³¹ Cobblers, grocers, dry goods sellers, and even the local undertaker profited admirably from their new and captive customers at Heart Mountain.³² State and local government profited too. During Heart Mountain’s first year of operation, internees paid more than \$12,000 in Wyoming sales tax on items they purchased in camp. Park County assessed more than \$1100 in property taxes on unsold goods in the camp’s canteens, money that went to support the Cody and Powell schools.³³

The third wave of profit was, however, the most significant. The internees at Heart Mountain were not merely consumers; they were also able-bodied workers. And they arrived at a time when a bumper crop of sugar beets was at risk of having to be plowed under because there were simply not enough men to harvest it. Farmers from all over Wyoming, Montana, and Nebraska began pressing the WRA for manpower from the camp. In the fall of 1942, Joseph Smart, the WRA’s regional director in Denver, signaled that he would begin approving seasonal furloughs to Japanese Americans from Heart Mountain to allow them to leave camp and join the harvest.

Governor Smith, however, saw danger in this plan—a danger

30. *Just To Tell You Where You’re At*, POWELL TRIBUNE, July 9, 1942, at 4.

31. *See Relocation Center May Buy Our Milk*, POWELL TRIBUNE, July 30, 1942, at 4; Mike Mackey, *The Heart Mountain Relocation Center: Economic Opportunities in Wyoming*, in REMEMBERING HEART MOUNTAIN: ESSAYS ON JAPANESE AMERICAN INTERNMENT IN WYOMING, *supra* note 3, at 53-54.

32. Mackey, *supra* note 31, at 54.

33. *Id.*

that, to him, exceeded its benefit. The labor contracts negotiated by the WRA for internee labor fixed no date for the internees' return to the camp. This alarmed Governor Smith, who "did not feel . . . that [he] could be a party to the releasing of these Japanese in Wyoming without some restrictions as to when they might be returned to the relocation center."³⁴ His obvious concern was that some of the internees might find a way to stay in Wyoming permanently once freed from its barbed-wire fences. He therefore tried to prevail upon the WRA to insert a clause into its labor agreements either guaranteeing the return of all laborers to camp by December 1, 1942, or conferring on the governor "the right to terminate the working agreement when, in his judgment, the welfare of the communities or of the State of Wyoming[] can be best served by return of the Japanese to their relocation centers."³⁵ The WRA, however, was opposed to allowing a state official to dictate federal policy, and resisted Governor Smith's demands. Through most of the month of September 1942, while the governor and the WRA tussled over the contracts, the internees stayed in camp and the sugar beets stayed in the ground, much to the distress of the farmers. Many of them began to grouse openly about the governor's intransigence on the issue.³⁶ By the time the impasse was resolved in late September, several weeks had been lost, as had some measure of Governor Smith's political support.³⁷ In the end, however, the internees at Heart Mountain were instrumental in saving the 1942 harvest, and contributed importantly to the agricultural health of the state for the next two years.

It might seem surprising that the governor of a rural state would have provoked the ire of his agricultural constituency two months before an election, especially when those constituents were stating so clearly that the balance of risk and benefit swung heavily toward the furlough of workers from Heart Mountain. This, however, says something important about Governor Smith and the source of what Governor Geringer and Mayor Milburn today suggest was the "compulsion" he felt to impose restrictions on the internees. Smith could not get his mind around the notion that any person of Japanese ethnicity in America could retain any sort of freedom. For example, in July 1942, before the Japanese of the West Coast were shipped to Heart Mountain, three families of Japanese descent who had voluntarily left the State of Washington before being

34. Letter from Governor Nels Smith to J.C. O'Mahoney, United States Senator (Sept. 14, 1942) (on file with the American Heritage Center, Laramie, Wyoming: Nels H. Smith Collection, Acc. 9880, Box 3, Folder 5).

35. *Id.*

36. See *Cody Club Airs Views on Jap Labor on Farms, Private Homes*, CODY ENTERPRISE, Aug. 26, 1942, at 1.

37. See Mackey, *supra* note 31, at 56.

rounded up by the federal government showed up in Worland, Wyoming, looking for a place to live. Governor Smith complained immediately to Secretary of War Henry Stimson, reminding him that the western governors had been promised that “no Japanese would be brought into their states except under federal supervision and maintenance.”³⁸ Stimson’s rebuke was stern. He reminded Smith that there were many Japanese Americans in the country whose liberty was in no way affected by the emergency on the West Coast. “Under the Constitution,” Stimson pointed out, “such persons as well as the American[-]born members of any race are as free to enter or locate in your state as they are into any other interior state.”³⁹ Plainly, the government had no greater power to keep a Japanese American out of Worland than a Swedish American. But to Nels Smith, it seems, the only good Japanese American was an incarcerated Japanese American.

In October, with the squabble over internee labor behind him, Governor Smith geared up for his reelection bid. And in that effort, he chose to highlight his handling of the “serious Japanese problem” that had confronted the state. In his published platform, he boasted that he had consented to Japanese immigration only under federal supervision. “I could not,” he argued, “in keeping with good faith, allow the Japanese to become entrenched in our state as permanent residents.” He went on to promise that if, at the conclusion of the war, he was still governor, he would “insist that the federal government remove them from our state.”⁴⁰

The newspaper ads that Smith ran late in October 1942 put the point more succinctly. Next to a large photograph of him, the ads featured a list of the five signal accomplishments of his first term in office. The second item on the list—second only to cutting taxes, and ahead of defending Wyoming’s water rights—was that Smith had “Prevented Japanese Evacuees From Becoming Residents.”⁴¹

This boast from the Republican candidate for governor drew a rebuke from the *Wyoming Eagle*, a Democrat-friendly newspaper in Cheyenne. The paper pointed out that some 10,000 Japanese were, in

38. Telegram from Governor Nels H. Smith to Henry L. Stimson, United States Secretary of War (July 8, 1942) (on file with the American Heritage Center, Laramie Wyoming: Nels H. Smith Collection, Acc. 9880, Box 3, Folder 5).

39. Telegraph from Henry L. Stimson, United States Secretary of War, to Governor Nels H. Smith (July 21, 1942) (on file with the American Heritage Center, Laramie, Wyoming: Nels H. Smith Collection, Acc. 9880, Box 3, Folder 5).

40. *Governor Smith’s Platform*, WYOMING STATE TRIBUNE, Oct. 21, 1942, at 4.

41. See, e.g., *Nels H. Smith, Republican Candidate for Governor*, WYOMING STATE TRIBUNE, October 26, 1942, at 2 (advertisement for Nels H. Smith, Republican candidate for governor).

fact, “residents” of Wyoming. “Did you mean to say, governor,” the paper taunted, “that you had prevented these Japanese from becoming citizens—not residents? You should know there is a vast difference.”⁴² The crux of the difference, for the newspaper, was the franchise: those internees who were American citizens and of voting age would, under the Wyoming Constitution, be eligible to vote in Wyoming a year after their arrival, and thereby act not merely as Wyoming residents but as Wyoming citizens. “So despite your claim,” the paper gloated, “you have not prevented one Japanese from becoming a resident or a citizen of the state, for the Japs are here and the Constitution still stands. Is that truth in advertising, governor?”⁴³

Nels Smith lost a close race for re-election in November 1942 to Lester Hunt, a Lander dentist and Democrat who had served as Wyoming’s Secretary of State during Smith’s term in office. However, even with the change in leadership, state policy toward the internees did not change. Indeed, Governor Hunt picked up where his predecessor had left off by signing legislation directed against the internees that was not merely xenophobic and discriminatory, but patently unconstitutional under state law. That legislation was introduced by a state senator from Park County early in the legislature’s session in January 1943.⁴⁴ It was designed to fix the problem identified by the *Wyoming Eagle* during the fall campaign: Within a year, citizens of voting age at Heart Mountain would become eligible to vote. The bill’s solution was direct; it simply provided that any citizen “brought into . . . Wyoming by the WRA” and “interned in a relocation center or concentration camp . . . shall be prohibited from voting in any election in the State of Wyoming.”⁴⁵ The bill passed the Senate and was sent to the House, where it “met with opposition but passed on roll call [of] 41 to 14.”⁴⁶ Governor Hunt signed it into law on February 5, 1943, a month after taking office.⁴⁷ With that, Heart Mountain’s citizens of voting age were barred from the franchise.

This law was simply indefensible. While the newspapers reported what was obvious, namely, that the bill “was frankly aimed at the members of the Hart [sic] Mountain relocation center near Cody and

42. *Campaign Highlights*, WYOMING EAGLE, Oct. 27, 1942, at 6.

43. *Id.*

44. *Senate Gets Bill to Bar Japs’ Votes*, WYOMING STATE TRIBUNE, Jan. 20, 1943, at 1.

45. 2 WYO. COMP. STAT. § 31-113 (1945). The bill permitted such persons to vote only after the termination by Congress of the emergency necessitating their internment. *See id.*

46. *House Okays Eight Bills*, WYOMING STATE TRIBUNE, Feb. 4, 1943, at 2.

47. *Japanese at Cody Camp Can’t Vote*, WYOMING STATE TRIBUNE, Feb. 8, 1943, at 3.

Powell,"⁴⁸ they said nothing about any reason the legislature or the governor offered for stripping American citizen residents of Wyoming of the right to vote. Perhaps Wyoming's elected officials thought that because the internees had all been uprooted from homes along the West Coast, they would retain their voting rights in their former districts. Had they taken a moment to investigate, however, they would have learned that this was generally false. A mountain of technical requirements stood between the internees and the franchise in their former home districts in California, Washington, and Oregon.⁴⁹ The number of Heart Mountain residents who, through the trauma of their evacuation and incarceration in the spring and summer of 1942, managed to comply with the election law of their home states, sustain their voter registration, and procure absentee ballots was undoubtedly small. Thus, in practical effect, the Wyoming statute stripped most of the citizen internees of their only realistic chance to vote.

Far more importantly, the statute was flagrantly unconstitutional. Article 6, Section 2 of the Wyoming Constitution provided that "[e]very citizen of the United States of the age of twenty-one years and upwards, who has resided in the state . . . one year and in the county wherein such residence is located sixty days next preceding any election, shall be entitled to vote at such election[.]"⁵⁰ The law that Governor Hunt signed flatly violated that constitutional provision. If Wyoming's elected representatives had wished to strip Heart Mountain citizens of the vote, the only constitutional way to do so was through an amendment to the Wyoming Constitution. Such an amendment would have required two-thirds support in both houses of the legislature,⁵¹ and would undoubtedly have received such support. But here was the sticking point: in order to take effect, the amendment would then have had to be "submit[ted] . . .

48. See *Senate Gets Bill to Bar Japs' Votes*, *supra* note 44.

49. Any Washington or Oregon resident who had not voted in an election after November 29, 1940, had his registration cancelled by operation of state law. (This was undoubtedly just about everyone, because there had been no election of any great significance between that date and the spring of 1942, when they were all evacuated.) Registration by mail from Heart Mountain was not possible. For California voters, the situation was not much better. Unless they voted in the 1942 primary election—something that was quite difficult, because they were all behind barbed wire at the time of that election—they had to register for the November 1942 general election by early October of 1942, which was a major logistical challenge due to their incarceration. See War Relocation Authority, *Offer Aid in Application for Ballots*, 26 GENERAL INFORMATION BULLETIN 1 (Oct. 15, 1942). There were undoubtedly some intrepid Japanese American citizens who managed to keep their California, Oregon, or Washington voter registration intact. But it must have been quite a small number.

50. WYO. CONST. ART. 6, § 2 (1890), 5 WYO. COMP. STAT. ANN. 101 (1945).

51. WYO. CONST. ART. 20, § 1 (1890).

to the electors of the state at the next general election.”⁵² By that time, Heart Mountain voters would already have acquired the franchise and had a chance to exercise it. Wyoming’s elected officials therefore chose to strip Heart Mountain of the vote the quick and dirty way, through simple legislation, even though that method was blatantly unconstitutional.⁵³

A few months after signing the voting bill, Governor Hunt was again confronted with an issue concerning the internees at Heart Mountain. Late in April 1943, an article appeared in the *Denver Post* alleging that the WRA was coddling internees at Heart Mountain, showering them with luxuries of which ordinary war-rationing Americans could only dream.⁵⁴ Wyoming’s first-term Republican senator E. V. Robertson, a resident of Cody, quickly picked up on the *Denver Post* story. Even though he steadfastly refused to visit Heart Mountain during any of his frequent visits to his hometown,⁵⁵ and thereby insulated himself from first-hand knowledge of conditions at the camp, Robertson began publicly accusing the WRA of “petting” and “pampering” the internees.⁵⁶

Hunt sensed politics behind the story, especially because he saw the *Denver Post* as “a Roosevelt hater, one of those papers that . . . would stop at nothing to hurt President Roosevelt.”⁵⁷ To his credit, in his correspondence with constituents who had been stirred up by the *Post* and Senator Robertson, Governor Hunt took pains to refute the allegations of pampering. For example, to one Cheyenne constituent, Hunt wrote that he had

visited the Japanese Relocation Center and can say . . . very frankly that most of the rumors, stories and statements with ref-

52. *Id.*

53. At that session of the legislature, the legislators also passed and Governor Hunt signed a law barring aliens from purchasing land. See 1943 Wyo. Sess. Laws ch. 35. The law, which exempted Chinese aliens, was as plainly directed at the Heart Mountain internees as was the voter disenfranchisement bill. Remarkably, Wyoming’s alien land law was still on the books until February 2001. See Gabriel J. Chin, *Citizenship and Exclusion: Wyoming’s Anti-Japanese Alien Land Law in Context*, 1 WYO. L. REV. 497 (2001).

54. Jack Carberry, *Hostile Group is Pampered at Wyoming Camp*, DENVER POST, Apr. 24, 1943, at 1.

55. See *Senator Robertson Speaks Again*, HEART MOUNTAIN SENTINEL, May 8, 1943, at 4; and *Senator Robertson, in Cody, Declines Invitation to Center*, HEART MOUNTAIN SENTINEL, June 12, 1943, at 1.

56. See *Says We ‘Pamper’ Internees in West*, N. Y. TIMES, May 7, 1943, at 5.

57. Letter from Governor Lester C. Hunt to William J. Stone (April 26, 1943) (on file with the American Heritage Center, Laramie, Wyoming; Lester C. Hunt Collection, Box 1).

erence to the Relocation Center are tremendously exaggerated. The Relocation Center buildings are barrack type and decidedly inferior to the C.C.C. camps. The evacuees eat in a common dining room and at the time I visited the camp five or six families were quartered in one barracks without [partitions] and without running water, and their living standard was, to my way of thinking, rather disgraceful.⁵⁸

It is hard to say whether Hunt's defense of the internees came primarily from compassion for their plight or from his sense as a Democrat that the Republicans were reaping unfair political advantage from false charges about a federal program. But whatever their motivation, these were the only kind words toward the internees that ever emerged from the Wyoming governor's office during the war years, and they were largely directed at making sure Wyomingites knew that the internees were sufficiently suffering.

After the tempest over the *Denver Post's* allegations died down, Heart Mountain moved off of Governor Hunt's agenda. To the extent that the governor had any sort of continuing Heart Mountain policy, it was simply a continuation of his predecessor's insistence that the internees must leave the state at war's end. This was the one consistent theme on Heart Mountain in his correspondence. In March 1943, Hunt wrote to Senator Albert B. Chandler of Kentucky that he "definitely [felt]" that the federal government had "an obligation . . . to eventually return all evacuees at government expense to their original homes."⁵⁹ A year later, his refrain was the same. In a letter to the mayor of Powell, Hunt wrote that he was "emphatically . . . opposed to any of the evacuees' purchasing any property in the vicinity of Powell," and that he would "insist to the very extent of my capacity in having the Heart Mountain Japanese return to their respective states when the war ends."⁶⁰ To that end, the governor urged the mayor of Powell to drum up political support for a

58. Letter from Governor Lester C. Hunt to Harold A. Waechter (May 17, 1943) (on file with the American Heritage Center, Laramie, Wyoming: Lester C. Hunt Collection, Box 1).

59. Letter from Governor Lester C. Hunt to A.B. Chandler, United States Senator (Mar. 31, 1943) (on file with the American Heritage Center, Laramie, Wyoming: Lester C. Hunt Collection, Box 1). A few months later, when a rumor circulated that the WRA might close the camp, Hunt wrote to a constituent of his "anxiety over what disposition will be made of the evacuees." "We certainly do not want them left in this state," the governor asserted. Letter from Governor Lester G. Hunt to Harold A. Waechter, *supra* note 58.

60. Letter from Governor Lester G. Hunt to Ora E. Bever, Mayor of Powell, Wyoming (Aug. 8, 1944) (on file with the American Heritage Center, Laramie, Wyoming: Lester C. Hunt Collection, Box 1).

resolution in the state legislature demanding that the federal government honor what Hunt saw as its “deep obligation to Wyoming . . . to take every one of the[internees] back to California.”⁶¹

In making this appeal to the mayor of Powell, Governor Hunt was preaching to the choir. For while the dearth of historical materials makes it hard to reconstruct the precise attitudes of local government officials to the internment of Japanese Americans at Heart Mountain, the general position of officials in Cody and Powell was one of hostility and mistrust. In the spring of 1943, as WRA administrators at Heart Mountain continued their practice of granting internees temporary furloughs or “leaves” from camp to work and shop in Cody and Powell, municipal leaders began to worry that the WRA was actually pursuing a secret policy of encouraging permanent resettlement of internees in Park County.⁶² Thus, in early May, the town councils of Cody and Powell jointly and unanimously approved a resolution declaring the towns more or less off limits to residents of Heart Mountain. The resolution cited a desire to “avoid[] any trouble or difficulty in the future” from “the problems arising by virtue of the Japanese at the Relocation Center at Heart Mountain visiting in the communities of Powell and Cody.” It called for “the visiting of the Japanese in the Towns of Powell and Cody [to] be held to an absolute minimum” and urged “that no visitor’s passes be issued except when absolutely necessary and that [the internees] be accompanied by proper or authorized escorts.” Recognizing, however, that this language might also be read as forbidding internees to leave camp for work outside, the town councils took pains to say that the resolution should “in no way interfere[] with or discourage those Japanese on temporary leave who are engaged in gainful employment essential to the war effort, and particularly necessary labor on ranches and farms.”⁶³ As Roger Daniels has observed, this resolution “put[] the Wyoming opinion in a nutshell: work them when we need them, but don’t give them any privileges.”⁶⁴

The hypocrisy in the joint Cody-Powell resolution was lost on neither the internees nor the War Relocation Authority. Bill Hosokawa, the editor of the *Heart Mountain Sentinel*, pointed out in his weekly column that “[b]oth towns ha[d] benefited from the WRA center, especially

61. Letter from Governor Lester C. Hunt to Ora E. Bever, Mayor of Powell, Wyoming (Aug. 14, 1944) (on file with the American Heritage Center, Laramie, Wyoming: Lester C. Hunt Collection, Box 1).

62. See *Powell’s and Cody’s Relations with Near-By Heart Mountain Japanese*, POWELL TRIBUNE, May 6, 1943, at 1.

63. *Resolution of Policy towards the Japanese at Heart Mountain Relocation Center*, CODY ENTERPRISE, May 5, 1943, at 5.

64. Daniels, *supra* note 25, at 115.

Cody whose lifeblood, tourist trade, has been shut off by the war.” Hosokawa also noted the seemingly unquenchable thirst for internee labor of local farmers and ranchers. He gently implied that the internees might wish to shut the spigot on this flow of economic support. “No one can blame evacuees if they should prefer employment in more congenial surroundings,”⁶⁵ he said.

The WRA was of the same view. Heart Mountain’s top administrator responded strategically to the joint Cody-Powell resolution, announcing that he was closing all of Park County to all internees, even those wishing to do farm, ranch, and domestic work.⁶⁶ He was betting that if the neighboring towns were made to feel the economic pinch of their exclusionary policy, they might think better of it. He was right. Many in the region quickly recognized that the towns’ stance toward the internees would cost them a lot of money. They complained to their local leaders, and the joint resolution was soon suspended.⁶⁷ Internees again were welcome, or at least tolerated, in Cody and Powell—two towns whose leaders had found xenophobia a sound policy until their constituents had been forced to pay for it.

This, then, is the role that Wyoming’s elected officials played in the Japanese American internment. It was unmistakably the role of an oppressor. Governor Smith demanded the incarceration of guiltless American citizens and Japanese aliens in concentration camps under military guard, got what he demanded, and then proudly campaigned for reelection on that accomplishment. Governor Hunt signed into law a patently unconstitutional bill stripping the internees of the right to vote in the state where they resided, and then continued his predecessor’s policy of demanding the expulsion of each and every one of the internees from Wyoming at war’s end. And local officials in Park County chose to treat the internees as a ripe piece of federally planted fruit to be sucked dry of its juices and discarded at the first opportunity.

Governor Geringer and Mayor Milburn would have us refrain from judging Wyoming officialdom’s wartime record. But what in this sorry story defies our judgment? Which of these policies was not grounded in racial suspicion or economic opportunism? Which of them

65. Bill Hosokawa, *On the Inside*, HEART MOUNTAIN SENTINEL, May 8, 1943, at 4.

66. See *WRA May Ban Park County Jobs*, HEART MOUNTAIN SENTINEL, May 8, 1943, at 1; *Park County Leaves Ban in Effect*, HEART MOUNTAIN SENTINEL, May 15, 1943, at 1; and see Daniels, *supra* note 25, at 115.

67. See Daniels, *supra* note 25, at 115.

did not cause thousands of innocent people needless suffering? The truth is that all of them did. So why not say so?

If the letter offers even a colorable reason for suspending judgment, it is in the concept of compulsion. Remember: Governor Geringer and Mayor Milburn report that the regulations and restrictions on the Heart Mountain internees were strictures that Wyoming's leaders "felt compelled" to impose. By mentioning compulsion, Geringer and Milburn allude to an argument that one often hears about the Japanese American internment. It is an argument based on context and circumstance: This was wartime. In the Japanese, the United States was up against an enemy the likes of which we had never before encountered. American territory was threatened and, for a time in 1942, even occupied at the western end of the Aleutian archipelago. Americans were scared, and with good reason. It is unfair, the argument goes, to look back half a century later, from the comfort of peacetime, and condemn officials for actions they took under such extreme circumstances. These officials were compelled by the pressure of events to act as they did, and as our tort and criminal law teach us, compulsion diminishes culpability.

There are two problems with this argument. The first is that it does not fit much of the historical record very well. Nothing outside Nels Smith forced him to make his oppression of the internees a centerpiece of his campaign for reelection. Nobody forced the Wyoming legislature to pass an unconstitutional bill disenfranchising the residents of Wyoming's third-largest population center, and nothing forced Lester Hunt to sign it into law. No plausible military or security concern drove either governor to press for the expulsion of every internee from Wyoming when the war was over. Nothing but their own fear of the foreign forced the mayors and town councils of Cody and Powell to treat the residents of Heart Mountain as prison labor.

But there is a more fundamental problem with the argument of compulsion, and that is that one Western governor managed to resist it. Just south of the Wyoming border, the State of Colorado faced all of the same wartime pressures as did the other states of the Mountain West. Like Wyoming, Colorado had a conservative Republican in the governor's mansion. Ralph L. Carr was a Colorado-born lawyer and former United States Attorney for the District of Colorado who was turned out of that office in 1933 when Franklin Roosevelt and his New Dealers came into political power. Running on an anti-bureaucracy platform,

Carr was elected governor in 1938 and remained a vocal critic of FDR's domestic policy throughout his term in office.⁶⁸

In the spring of 1942, as Governor Carr deliberated on his political future, weighing a run for a second term as governor against a run for the United States Senate, the federal government announced its plan to evict the ethnically Japanese population of the West Coast. As rumors swirled that the federal government was thinking of relocating the Nikkei to the Mountain West, Carr faced something of a political crisis. Edwin Johnson, the Democrat whose seat in the U.S. Senate Carr was thinking of seeking, was a maverick opponent of his own party's New Deal and an isolationist to boot. A federal policy of relocating the Nikkei to Colorado would undoubtedly find little support from Senator Johnson.⁶⁹ But Carr's own Republican Party was also deeply opposed to admitting evacuees from the West Coast. The fervently Republican *Denver Post* put the point succinctly in March 1942 when it stated, in bold capital letters, that "COLORADO DOESN'T WANT THESE YELLOW DEVILS AND DOESN'T INTEND TO ALLOW THIS STATE TO BE TURNED INTO A SANCTUARY FOR ENEMIES OF THE AMERICAN PEOPLE."⁷⁰ Surveying the political landscape that spring, Ralph Carr saw support for the Nikkei to neither his right nor his left.

The safest thing would have been for Carr to join the chorus of western political leaders opposing the federal government's plans. But as a subsequent Colorado governor, Richard Lamm, pointed out, those who expected Carr to fall in line with the others had not taken an accurate measure of the man.⁷¹ Carr instead spoke movingly of Colorado's obligation to welcome the dislocated Nikkei and to treat them properly and fairly. On February 28, he stunned his state and the region by announcing that "[i]f enemy aliens, including Japanese, should be transferred to Colorado as a war measure, Colorado is 'big enough and patriotic enough' to do her duty in providing for them."⁷² Initially, he pre-

68. Biographical information about Governor Carr is surprisingly sparse. The information in this essay is drawn from RICHARD LAMM & DUANE A. SMITH, *PIONEERS AND POLITICIANS* 137-45 (1984) and from the brief biographical sketch on Governor Carr on the website of the Colorado State Archives, *available at* <http://www.archives.state.co.us/govs/carr.html> (Nov. 6, 2000).

69. *See Gov. Carr Stakes Political Future on his Jap Stand*, DENVER POST, April 3, 1942, at 1; *Control of Jap Migrants to Colorado Demanded*, DENVER POST, April 5, 1942, at 5; *see also* LAMM & SMITH, *supra* note 68, at 140.

70. *That's That*, DENVER POST, Mar. 1, 1942, at 2.

71. LAMM & SMITH, *supra* note 68, at 141.

72. *Carr Says Colorado Will Take Evacuated Japs If Called On*, DENVER POST, Mar. 1, 1942, at 1 (quoting Governor Carr).

sented the issue as one of simple patriotic duty. He conceded that Coloradans had initially responded to the rumors with "resentment," a "feeling that that we did not want enemy aliens within our borders who might acquire property rights, who might compete with Colorado labor, and whose presence would be a constant menace and threat to our peaceful way of life."⁷³ "But surely," he insisted, "we possess the brains, the resources, the solid American character which will enable us to solve these problems properly and intelligently."⁷⁴ Carr announced his intention to seek support for his position from other neighboring governors, including Governor Smith of Wyoming.⁷⁵

The response to Governor Carr was swift and negative. Governor Smith and the other governors in the region rebuffed Carr's overtures. The *Denver Post* broke party ranks to criticize the governor for his "'fence-straddling' position on the Jap alien question." Carr's statement, said the *Post*, "certainly does not express the sentiment of the people of Colorado." "With all due respect to the governor," the newspaper said, again marking its emphasis with capital letters, "WE DO NOT CONSIDER IT OUR PATRIOTIC DUTY TO PROVIDE SANCTUARY FOR OUR ENEMIES, even if somebody in Washington" requests it. Instead, the *Post* argued, the federal government should "put them in concentration camps, under military guard."⁷⁶ Communities as diverse as La Junta, Swink, and Denver promptly picked up on this call for concentration camps.⁷⁷

This reaction hardened rather than softened Governor Carr's resolve. In some of his speeches, compliance with the federal program of relocation became a matter not just of patriotic duty but of respect and even compassion. In early April, a few days before Nels Smith and other western governors gathered to read Milton Eisenhower the riot act in Salt Lake City, Governor Carr preached that:

To the American-born citizens of Japanese parentage, we look for example and guidance. To those who have not been so fortunate as to have been born in this country, we offer the hand of friendship, secure in the knowledge that they will be as truly American as the rest of us. This is a difficult time for all Japa-

73. *Id.* at 4.

74. *Id.*

75. See *Carr to Urge Other States to Take Japs*, DENVER POST, Mar. 2, 1942, at 1.

76. *That's That*, *supra* note 70, at 2.

77. See *Carr Will Ask Governors of Other States to Accept Japs*, DENVER POST, Mar. 2, 1942, at 2; and *Carr Seeks Federal Control over Aliens Ousted from Coast*, DENVER POST, Mar. 22, 1942, at 3.

nese-speaking people. We must work together for the preservation of our American system and the continuation of our theory of universal brotherhood.⁷⁸

And Carr practiced what he preached. While Nels Smith urged local officials to bar from Wyoming any voluntary Nikkei migrants from the West Coast who arrived in search of quarters, Ralph Carr stared down an angry crowd in southern Colorado who were demonstrating against the arrival of the Nikkei. "If you harm them, you must harm me," Carr told the crowd. "I was brought up in a small town where I knew the shame and dishonor of race hatred. I grew to despise it because it threatened the happiness of you and you and you."⁷⁹ Under this umbrella of gubernatorial protection, many hundreds of voluntary migrants from the West Coast found shelter in Colorado. By early April, when a change in federal government policy stopped the flow of voluntary migration, some twelve hundred Japanese aliens and Japanese American citizens had arrived and found refuge in the state.⁸⁰

Just as Nels Smith chose to campaign on his policy toward the evacuees, so, daringly, did Ralph Carr. In a speech at the University of Colorado in Boulder on April 3, 1942, the governor boldly stated that he was willing to "stake his political future . . . on his conviction that Japanese evacuated from the Pacific coast should be permitted to enter Colorado if the evacuation is at the order of the federal government." "If we can't house in Colorado a few thousand Japanese, we've gone soft," the governor argued. And "[i]f we put American-born Japanese in concentration camps," he continued, "we abrogate their constitutional rights." Carr was clear about the political risk he was running. "If I'm right," he told his audience, "let's stop making threats against the Japanese." And "[i]f I'm wrong," he said, "you can oust me at the next election."⁸¹

That is effectively what the people of Colorado did. A few weeks later, Carr made up his mind to run against Ed Johnson, the Democrat incumbent, for the U.S. Senate, rather than to try to hold on to his job as governor. And on November 3, as Republicans across the state swept to convincing victories, Ralph Carr lost his race for the Senate by about 3000 votes out of the more than 300,000 cast.⁸² At the same time, a fellow Republican whom Carr had earlier appointed to fill a vacancy in

78. Carr is quoted in LAMM & SMITH, *supra* note 68, at 141 (quoting LAS ANIMAS DEMOCRAT, Apr. 3, 1942).

79. LAMM & SMITH, *supra* note 68, at 143.

80. *1,200 Japs Have Come to Colorado*, DENVER POST, April 4, 1942, at 1.

81. *Gov. Carr Stakes Political Future on his Jap Stand*, *supra* note 69, at 1.

82. *Johnson Appears Winner over Carr*, DENVER POST, Nov. 4, 1942, at 1.

Colorado's other Senate seat won the contest for that open seat by a margin of more than forty thousand votes, as did the Republican running to succeed Carr as governor.⁸³ Plainly the State of Colorado was in a Republican mood, which made Carr's race his to lose. Yet he lost it, and there was little doubt as to why. Senator Johnson's popularity had something to do with it, of course, but, according to a diplomatic passage in the *Denver Post*, so too did the "strong-willed" Carr's "individualism and refusal to yield on issues upon which he had made up his mind" which had "cost him some support from his own party."⁸⁴ The "issues upon which he had made up his mind" were, of course, those relating to the Nikkei internees. Ralph Carr bet on the largeness of spirit of his fellow Coloradans and lost his bet.

Ralph Carr's defeat might persuade a cynic that Wyoming's officials acted wisely in fighting to keep the internees out of the state. As a matter of political judgment this is probably true, although Nels Smith's anti-Japanese platform did not ultimately help him hold on to his job either. But the important point for our purposes is that Ralph Carr's stance powerfully undermines the argument for compulsion that Governor Geringer and Mayor Milburn hint at in their letter to the surviving internees of Heart Mountain. No Wyoming official was any more "compelled" to oppress the internees than was Ralph Carr to welcome them. Oppression, just like tolerance, was a free choice. If we would today praise Ralph Carr for his noble acts,⁸⁵ we must also condemn Wyoming's wartime leaders for their ignoble ones. In doing so, we act neither from malice, nor from a belief that we can change what is past, but from a conviction that careful judgment, clearly expressed, can shape what has yet to be.

83. *Id.*

84. *Id.* at 4.

85. On December 27, 1999, the *Denver Post* honored Governor Carr by naming him Colorado's "Person of the Century." See Bill Briggs, *Century Standout Governor Ralph Carr Opposed Japanese Internment*, DENVER POST, Dec. 27, 1999, at 1.