

The background of the cover features a light yellow-to-white gradient. Scattered across this background are several stylized, light green leaf motifs, each consisting of two leaves on a short stem, pointing in various directions.

TREASON ON THE AIRWAVES

Three Allied Broadcasters on Axis Radio
during World War II

Judith Keene

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Treason on the Airwaves

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Foreword by István Deák

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Foreword

Here is a fascinating triptych, lucidly and authoritatively etched, of World War II broadcasters who engaged in activity that was deemed treason. The three accused—an Englishman, an Australian, and an American—were all brought to trial following the end of hostilities; the nature of the sentences that were handed down to each of them varied enormously according to the extent of post-war public resentments and the personality of the accused.

The most familiar among the three is perhaps Iva Toguri—a young American of Japanese origin who was popularly known as “Tokyo Rose”—though the profiles of the other two are equally compelling. The Englishman John Amery, a virulent anti-Communist and anti-Semite who spoke openly of Winston Churchill as a “Jew-lover,” became enchanted early on with fascist doctrines and unwisely linked his star to the triumph of Nazism in German wartime broadcasts. The Australian Charles Cousens, a popular radio personality at home, became equally prominent abroad among prisoners recruited by the Japanese to broadcast war news. Iva Toguri, who was stranded in Japan at the outbreak of the war, accepted the radio broadcast post that was offered to her out of necessity rather than initiative or conviction.

As the author examines their stories, all three accounts provoke thoughtful questions as to the nature of justice and retribution. What constitutes the special contribution of Professor Keene is her emphasis less on the political climate surrounding the trials—amply covered in many scholarly tracts—than on the social and racial overtones manifest in the course of the three-fold prosecutions. Her thesis, that the dominant motive for the traitor John Amery as well as for the judges of the alleged traitor Tokyo Rose was racism, will certainly lead to a spirited debate among the readers of this book.

The author is scrupulous in examining the small, personal details that were often ignored in official accounts and which allow for a balanced view in forming any judgments with regard to the three protagonists. Because the destinies of all three were tied to their facility with the microphone, the powerful propaganda

role of that early-twentieth-century instrument looms large in Professor's Keene's pages.

This exhaustive study, remarkable both for clarity and vigor; adds substantially to our knowledge of post-war retribution, especially as its targets were not Germans or denizens of countries allied to or occupied by the Nazis but citizens of nations proud of their unblemished record in opposing the enemies of freedom and democracy during World War II. The haste with which some "traitors of the airwaves" were tried and sentenced after the war shows that even the great victorious democracies felt it necessary to engage in purges similar to all other countries that had emerged from the war.

István Deák
Columbia University in New York City

Preface

In the late summer of 2005, when I was researching this book, there burst on the scene in my hometown of Sydney, a spate of violent racial incidents. The groups involved fought over access to the much-vaunted Australian icon, “the beach.” On a couple of strips of sand in the southern suburbs what the press and the rioters called “the Lebs” battled it out with, similarly described, “Aussie surfers.” While in other parts of the city people struggled home with bags of Christmas shopping, the police in the contested areas set up roadblocks and closed the streets. At a time of the year when the heat is at its most enervating and schools, university and businesses wind down to a month’s annual holiday, these disturbing events took place. Predictably, in a country that makes much of the supposed laid-back nature of its citizens, the politicians said little that was useful. Ineffective leaders, perhaps, are the collateral damage in a society that claims as its national ethos “she’ll be all right.” On a prosaic note, I wondered where these young “Aussies” had acquired the flags they so wantonly draped around their shoulders or flew on the flagpoles that sprouted on their cars. In my recollection, the closest I had ever been to an Australian flag was in primary school. But even then the raising and lowering of the national standard only ever took place on special days and was a task restricted to a few gold-star pupils.

It was unnerving seen even from the safety of the multicultural inner-city. The smiling woman who sells my bread is modestly dressed from her scarf-covered head to her invisible toes. The butcher is halal and the corner shop, a model of Chinese capitalism, is run under the gimlet-eyes of two brothers from Shanghai. But, more and more, the example of the people from World War Two, with whom I had been engrossed, seemed apposite. In all their variegated contexts, racism had been the catalyzing factor. John Amery and his anti-Semitic confreres understood so little about human existence that they imagined Jews were the source of the world’s problems. Iva Toguri and her generation of Japanese Americans were excluded from full acceptance in their own place of birth, on the West Coast of the United States. Equally, they were never at home in Japan, the land of their forefathers. Many Australians and Americans of Charles Cousens’ generation

accepted with equanimity that the price of ending the Pacific war was that the atom bomb would reduce to ash civilians in Hiroshima and Nagasaki. Increasingly, in all of this, I wondered what disloyalty means in a racist society. The young Australians posturing on the beach, their tee shirts emblazoned with racist insults, or the fervent Japanese in 1940 cheering the flag of the rising sun and, equally, the pro-Nazi anti-Semites in Occupied Europe, all responded to their own sense of social crisis by retreating into exaggerated and self-aggrandizing nationalism.

Writing this book has made me aware of the strain in the relationship between the individual, the citizen and the nation. And wartime adds volatility to the whole concoction. In coming to close terms with John Amery, Charles Cousens and Iva Toguri, I have discovered, as well, that the big patterns of history are made up of a great many micro-histories, individual stories, writ small and even smaller. My purpose, however, is not advocacy for these individuals. Rather the objective is to illuminate these three related stories by setting the protagonists within the choices that separately were available to them in World War Two in Europe and in the Pacific and, in turn, examine the ways in which their particular governments held them accountable for these choices after the war. In the end, all that an historian can hope for is to elucidate a large issue in the past, treason in this case, by reconstructing how it was worked out in the lives lived by the individuals caught up in it.

Acknowledgments

The research for this book has been supported by a number of people and institutions. I am glad to acknowledge generous backing between 2001 and 2004 from the Australian Research Council. The University of Sydney through Sesqui-centenary grants, Research and Development funding and seeding money from The Research Institute for Humanities and Social Sciences has also enabled the research. In what are embattled times for humanities, I consider myself lucky to be part of the Faculty of Arts at The University of Sydney. The Dean, Stephen Garton, is a distinguished scholar and an efficient administrator, a fortunate combination that is repeated in the History department, chaired by Robert Aldrich. Over the last three years, colleagues in History and in European Studies in Sydney and elsewhere have put up with my endless talk about treason, the state and what, in the twentieth century, it means to be tagged as disloyal. That I remain friends with most of these people is a tribute to their tolerance. At the New South Wales Asylum Seekers Centre, I have seen firsthand how precious are the rights of citizenship and how dire the consequences when governments withhold them from individuals needing asylum.

Librarians and archivists, to paraphrase Eric Hobsbawm, are to the historian what the opium producer is to the addict. The Inter-Library Loan Section at Fisher Library, including Rod Dyson and Bruce Isaacs, provide exemplary service. A great many archivists have helped with the research for this book. They include those at the National Archives of Australia, in Canberra and Sydney, the Australian War Memorial, the British Library, the Public Record Office at Kew, the House of Lords Records Office in London and, in particular, Edward O. Barnes, at the National Archives and Records Administration in Washington. At NARA in San Bruno I especially thank William Greene who oversees the voluminous papers relating to Iva Toguri's prosecution. Toshika McCallum, at the Hirasaki National Resource Center within the Japanese-American National Museum in Los Angeles guided me through the extensive files and newspaper series that the center holds on Iva Toguri and Japanese-American community in the 1940s. The museum's permanent exhibition on the lives of Japanese-Americans interned in the United

States during World War Two is moving and memorable. Linda Wheeler and Carol Leadenham, at the Hoover Institution on War Revolution and Peace at Stanford University, unearthed material and, as always, gave good advice. The overseer of manuscripts at the Cambridge University Library, Godfrey Waller, was helpful, as was the staff at the Churchill Archives Centre, Cambridge where the Amery Family papers are deposited. John Entwisle at the Reuters Archive steered me to new Amery material and Clare Brown at the Lambeth Palace Library found important files and arranged copies. Colin Harris at the New Bodleian Library was generous in answering long-distance questions.

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Abbreviations

AIF	Australian Imperial Force
BBC	British Broadcasting Corporation
BEF	British Expeditionary Force
BPHOL	Beaverbrook Papers, House of Lords, London
CAC	Churchill Archives Centre, Cambridge
CIB	Japanese Cabinet Information Bureau
DPP	Director of Public Prosecutions
JACL	Japanese American Citizens' League
JANM	Japanese American National Museum, Los Angeles
LAP	Leo Amery Papers
LVF	Légion des volontaires français contre le bolchevisme
MAE AG	Spanish Foreign Ministry Archives, Madrid
NHK	Japan Broadcasting Corporation
PC	Press Cuttings
POW	Prisoner of war
NAA	National Archives of Australia
NARA SB	National Archives and Records Administration, San Bruno
NSWRO	New South Wales Record Office, Sydney
PPF	Parti Populaire Français
PRO	Public Record Office, Kew
RA JAF	Reuters Archive, John Amery File
SCAP	Supreme Allied Command
SOE	Special Operations Executive
TP CUL	Templewood Papers, Cambridge University Library
TSD	Typescript Diary
UCLA	University of California, Los Angeles

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Introduction

Traitors in wartime have a long history. Since the establishment of the nation state there have been individuals, from conviction—in anticipation of material reward or out of fear—who have acted in ways that promoted the success of the other side. Invariably, too, governments have carried out retribution against their own countrymen who were seen to be supporting the enemies of the nation.¹ During World War Two, both Allied and Axis governments used enemy nationals to broadcast propaganda. And, at the end of the conflict, the Allied victors charged with treason a number of their own citizens who had been involved in enemy radio.

This book traces the experiences of three such individuals. They were broadcasters over Axis shortwave and after the war were tried as traitors. John Amery, an English civilian and the son of a senior figure in the British government, made pro-Nazi broadcasts and speeches across Occupied Europe. The Australian, Charles Cousens, a leading figure in commercial radio before the war and a volunteer soldier in the Malaya campaign, became a broadcaster over Radio Tokyo while a prisoner of the Japanese. Iva Toguri, a young American freshly graduated from UCLA was stranded in Japan visiting relatives when war broke out and became a disc jockey on a Japanese program that was beamed to Allied soldiers in the Pacific.

The three stories highlight separate, national experiences that link the wartime theatres of Europe and the Pacific. As radio broadcasters they were part of the expanding networks of shortwave radio at a time when almost all belligerent nations were committed to shortwave broadcasting in the belief that propaganda disseminated over the airwaves went hand-in-hand with military victory. Postwar all three were charged with treason by their home governments. Their trials in Britain, Australia and the United States, respectively, provide a reminder that immediately after the war there was widespread anger towards collaborators and loud calls from the public for retributive justice against suspected traitors. As recognizable figures on Axis shortwave and as the protagonists in much-publicized trials, the three postwar cases attracted a good deal of attention. Later, as the

preoccupations of peace took over and public interest in war issues flagged, the memory of their era faded.

John Amery was the playboy son of Leo Amery, who in turn was a high Tory intellectual and a member of Churchill's government. From 1940 to 1945, despite the father's involvement in the British war effort, the elder son traveled in Occupied Europe, part of a motley cavalcade of pro-German propagandists. His speeches, regularly beamed back to England, castigated the "Jews, Toffs and Plutocrats" around the "Jew-lover" Churchill and the inept efforts of the "stuttering King George VI." John's wartime activities caused his family pain and embarrassment. Though the son's beliefs were refracted through a virulent anti-Semitism, they were sourced from the same wellspring that fed the ideas of the father. These were an obsession with the British Empire and a visceral hatred of communism.

The detail and the substance of John's ideology were elaborated during his time in Nationalist Spain during the Spanish civil war. There, he was part of the crowd of foreign camp followers—admirers, ideologues and opportunists—that circled around Franco's headquarters. Members of the extreme Right in Europe, whether they traveled to Burgos or not, laid great store by Franco's "Crusade." For them, the conflict in Spain was much more than a civil war.² Instead, they viewed what was taking place on the Iberian peninsula between 1936 and 1939 as a preparatory bout in the keenly anticipated final round of the show-down in which an ebullient European Right would trounce democrats, republicans and their "Bolshevik masters." At Franco's court, rubbing shoulders with European fascists and proto-Nazis, Amery absorbed many of these ideas. And exactly like these proto-fascists and pro-Nazi franquistas, when the larger civil war was declared, Amery took the political experience and his contacts from the pro-Franco movement into Occupied Europe where he trumpeted, on and off the air, the virtues of the coming New Order under Nazi auspice.

Captured at the end of the war fleeing north with the rag-tag of Mussolini's supporters, Amery was brought back to London, tried as a traitor and for a range of reasons, pled guilty. In a desperate effort to raise a pardon, the Amery family marshaled a dossier of testimonials and psychiatric reports to prove that John had been "morally insane" since a very young age. Subsequently, this material has been used to explain Amery's traitorous leanings. Certainly, it is legitimate to ask why the cosseted son of the English establishment would become a Nazi sympathizer; however, the explanations that rely uncritically on the Amery family sources are unsatisfactory. The indulged first sons of doting parents often grow into headstrong and unmanageable young men. Among the members of the Amery class this was not uncommon as was the practice of family members using their influence to protect their sons from the consequences of their unruly escapades. Indeed, as we shall see, one need only to look at John Amery's younger brother, Julian, to see that a similarly protected and privileged upbringing could produce a patriot who led an exemplary public life.

The subject of the second narrative, the Australian Charles Cousens, became a broadcaster on Radio Tokyo. Before the war, his voice was one of the most

recognized on the Australian airwaves. Having enlisted when war broke out, Cousens was in Singapore when the British Expeditionary Force surrendered to the Japanese and with some fifty thousand Allied prisoners was herded into Changi prison camp. The Japan Broadcasting Corporation, at the time, was actively expanding their shortwave networks and, having identified Cousens as a prisoner with radio experience, sent him to Tokyo. Like a great many British and Australian soldiers, Cousens had been shocked and disoriented by the collapse of the Malaya Command and distressed by the condition to which the defeated force was reduced. Initially he assumed that he could intercede in some way in Tokyo with the victors and, like many others caught up in what later would be categorized by the home government as collaboration, he had no way of foreseeing what lay in store for prisoners like himself or what would be the consequences of his social actions in captivity.³

In Tokyo, Cousens became a leader of a contingent of Allied prisoners of war drafted on to the Japanese airwaves to produce engaging English-language programs for transmission into the Pacific. Hitherto, very little has been known about these British, American and Australian broadcasters, though they played a crucial role in the Japanese shortwave network. Cousens and the group, including the young Japanese American woman, Iva Toguri, produced a series of programs over Radio Tokyo that drew dedicated American and Australian listeners, probably the only Axis propaganda broadcasts anywhere to achieve such audiences. American and Australian soldiers in the Pacific tuned in for the latest dance music and POW families at home were drawn to their sets by Nippon shortwave networks that spiced their emissions with lists of names and occasional messages from prisoners in Japanese camps.

When Japan surrendered, Cousens was arrested in Tokyo and sent back under guard for trial in Australia. Like a great many of those similarly charged elsewhere, Cousens maintained that his aim always had been to send useful information to Allied headquarters. His arraignment in the Sydney magistrate's court took place in an atmosphere of high emotion, coinciding with the return of soldiers and ex-POWs and the local press headlining reports from Tokyo of Japanese war crimes. Among the several hundred Allied soldiers and civilian prisoners whose voices had been heard over Radio Tokyo, only two Australians were charged; Cousens the single ex-serviceman. After a rowdy pretrial hearing, the magistrate found that Cousens had a case to answer on the charge of treason. Later, as a consequence of the complexity of state and federal legal jurisdictions, the charge lapsed, but Cousens suffered egregious penalty at the hands of the Australian Army.

Iva Toguri—an American whose narrative comprises the third part of this study—was probably the most famous of the three wartime broadcasters, though much of the material put out about her was based on rumor and misinformation. Among many returned servicemen in the Pacific and their families, “Tokyo Rose,” as they called her, had become a household name: the symbol for all that was thought to be evil in the Japanese character. Her experiences during the war and her treatment afterwards, however, can only be understood when set within the

context of her background as a Nisei, a first-generation American born within the Japanese American community of the United States. Along with several thousand young Nisei, she was stranded in Tokyo when war broke out, and like several hundred of them, considered herself lucky to find work in the English language section of the Japanese broadcasting service. Unlike a great many of fellow countrymen in Japan, however, Toguri resisted all Japanese efforts to make her take up Japanese nationality.

Toguri was charged with treason after the war despite her wartime marriage to a Portuguese citizen and without regard to the assistance she had provided to Allied prisoners of war at Radio Tokyo—one of whom was Charles Cousens. The trial in San Francisco took place in an atmosphere of palpable racism towards all Japanese, whether they were in Japan or on the American mainland. The retribution that her conviction comprised was loaded with animosity and fear sourced from the preceding era of wartime.

Overall, in analyzing these three linked examples, my own perspective on treason and traitors is that the term covers a “complex set of behavioral options,” that are only possible to understand when set within the historical context in which they took place.⁴ A good deal of the writing that hitherto has dealt with traitors has focused on the personal peculiarities of the individuals, particularly their character flaws and sexual proclivities. As well as in the explanations of John Amery’s “aberration,” the tendency can be seen most clearly, perhaps, in the great many studies that have been made of the Cambridge traitors, the group of young men around Burgess and MacLean who betrayed Britain between the wars and later.

In my study I carefully reconstruct the individual lives of Amery, Cousens and Toguri, before and during the war, but equally, I attempt to recreate the milieu in which their respective governments made the decision to categorize their behavior as treason. Even if it were in doubt, the diversity in outcomes—Amery executed, Cousens no-billed and Toguri receiving a heavy prison sentence—would signal the importance of historical context and contemporary contingency. The legal definitions of treason in Great Britain, in Australia and in the United States were precise. In practice, however, behavior that fell under that legal rubric evoked a whole range of responses and at each stage in the process of identification, prosecution and verdict, the conjunction of individual behavior, wartime context and historical contingency came into play.

The Laws of Treason and the Prosecution of Traitors

Treason is the oldest and most heinous of crimes. In Britain, the United States and Australia, the concept of treason evolved from the specification of the original English crime with subsequent changes made to each country’s legal system according to historical events in each place. The English Treason Act of 1351 spelled out the categories of conduct that were seen to challenge the authority of the monarch and constitute the capital offense. The death penalty was the punishment for attempted regicide, for disrupting the royal succession, for corrupting

the national currency and for challenging the authority of the monarch's agents. As well, the law proscribed the capital crimes of waging war on the monarch, adhering to the monarch's enemies, and giving them aid and comfort within the realm or elsewhere. In the course of five centuries, English treason prosecutions buttressed monarchical power, originally versus the aristocracy and then the gentry and, as the English state was democratized, they reached further down into the social structure. Over this long history, the application of the English Treason Act resulted in thousands of executions. Even after the death penalty was abolished in the United Kingdom in 1977, treason has remained a capital offense.⁵

When facing the exigencies of wartime, the British government promulgated several new laws to streamline the prosecution of traitors. Traditionally, there had always been opposition in Britain to the implementation of legislation that limited the rights of "free born Englishmen" [and women]. Wartime laws and regulations in 1940 were brought in against strong parliamentary opposition, and at the end of the conflict were quickly rescinded.⁶ British chariness toward implementing restrictive legislation, however, was not carried over into a reluctance to detain individual Britons who were suspected as traitors. The Treachery Act in May 1940 expanded the crime to include all acts of espionage by citizens or foreigners operating within any British jurisdiction. Faced with the great many Britons identified and later charged as traitors, a new treason act was implemented in June 1945 that maintained the substance of the earlier definition of the capital crime, but simplified the requisite evidential proof to bring it into line with the charge of murder. Instead of the previous legal requirement for two direct witnesses to the traitorous act, proof of the crime required only a single witness.

In the course of World War Two, Allied intelligence units cooperated to draw up a Watch List of Renegades. These were Allied citizens whose behavior had been reported via various intelligence and underground networks as indicating that the named individuals harbored pro-Axis sentiments and had collaborated in some way or another with the enemy. Once renegades were identified, wartime governments expended considerable resources to keep tabs on them in order to collect evidence for their potential postwar prosecutions.⁷ Some were resident in Occupied countries; however, most had been held in captivity abroad, as prisoners of war or in civilian detention camps. As soon as possible after the armistice, officers of Allied Military Intelligence moved to arrest those whose names were on the Watch Lists. In Britain, senior Scotland Yard detectives, who had been seconded to MI5, collected affidavits and evidence against suspected traitors in preparation for the laying of charges in English courts.

Suspected collaborators could be tried under the British Treason Act, for which a conviction carried an automatic capital sentence. Alternatively, they could be prosecuted for breaching British Defense Regulation 2A by assisting the enemy, which carried a maximum punishment of penal servitude for life. According to the Director of Public Prosecutions, Theobald Mathew, his department operated on the principle that renegades who were "thought not to be deserving of death" were indicted for violation of Defense Regulation 2A.⁸ By April 1946, at least one

hundred and twenty-five Britons had been charged with having aided the enemy abroad. The defendants consisted of sixty-eight civilians and fifty-seven servicemen, almost all of whom were prisoners of war or civilian internees; most of the actions that brought the charge had taken place in camps in Occupied Europe.⁹ It is not always possible to establish the precise outcome of each charge; however, the arraignments took place between the end of 1945 and early 1947. In February of that year, Mathews indicated that, using Defense Regulation 2A, his department had achieved verdicts against twenty-one British citizens who had made Axis broadcasts. Overall from a welter of prosecutions, and including at least nine capital convictions, there were three executions for treason. As well as Amery's in the week before Christmas 1945, the others were the civilian broadcaster William Joyce, better known as "Lord Haw Haw," who was put to death in Wandsworth Prison on January 3, 1946; and the British serviceman, Theodore Schürch, executed in Pentonville Prison on January 4, 1946.¹⁰

What is notable about these postwar British trials is the wide range of sentences that were handed down, even for what were very similar crimes. One observer has suggested that where there were executions it was because the British government "wished to demonstrate the maximum retribution against anybody who seriously challenged it."¹¹ However, this was not so. Certainly, the British citizens convicted under the Treachery Act as German wartime spies and executed between mid-July 1941 and March 1944 may have constituted a challenge to the British state.¹² But the other "ordinary" prosecutions under the treason act did not. Neither William Joyce nor John Amery posed a threat to Britain. Joyce was never a British citizen and though he had obtained a British passport illegally, that in itself was a straightforward criminal offense. His ranting on the Berlin airwaves in the end amounted to no more than that. Amery, an unreliable fantasist who certainly brought the good name of his family into disrepute, offered no substantial challenge to the British government. Indeed, one could observe that in constituting a continuous and considerable drain on the German purse, Amery aided the Allied war effort. In further proof of the lack of official consistency, charges were dropped against Edward Bowlby, just after Joyce's execution, even though Bowlby was without question a British national who had traveled on a valid English passport to Berlin from where he made a series of tawdry anti-Semitic broadcasts that were directed at wartime Britain.¹³

Some forty British individuals, of whom at least nine were servicemen, made pro-Nazi broadcasts from Berlin. Thomas Cooper and the soldier Walter Purdy received capital sentences that were subsequently commuted. In the end the two, separately, spent less than a decade behind bars. Norman Baillie-Stewart, facing his second trial as a traitor and despite his having abjured British citizenship in 1938, received five years of hard labor.¹⁴ P. G. Wodehouse, extricated from internment in Occupied Europe in return for making broadcasts from Berlin, was never charged.¹⁵ Also, the English courts were kind to the half-dozen female broadcasters in Berlin among whom the longest sentence meted out was for eighteen months handed down at the Old Bailey to Susan Hilton. The best

indicator of the severity of sentence was the trial's proximity to the end of the war. The further away from the armistice that it took place, the less likelihood there was of a heavy sentence. This phenomenon of chronology, with Iva Toguri a notable exception, held sway, as well, in Australia and the United States.

In Australia, treason within the country and its territories was designated as a capital offense under the Commonwealth of Australia Crimes Act, 1914.¹⁶ Individuals enlisted in the military services could also be charged under the Defense Regulations Act. The latter might bring a heavy custodial sentence, but never capital punishment. The legal complication that tangled the government's attempts to press treason charges against two Australians, who had been broadcasters on Japanese shortwave radio, was that their traitorous actions had taken place outside Australian territory. Therefore, the indictments had to be brought within the jurisdiction of English common law in which, as we have seen, it was a crime to aid the king's enemies whether at home or abroad. Prior to the Australian law reforms of the 1960s, English common law prevailed in the ex-colonies, that is, in what after Australian Federation became the states of Australia. Therefore, when the Australian government wished to prosecute Charles Cousens, and later the civilian broadcaster John Holland, the Attorney General was forced to navigate a set of complex legal pathways. When the rivalry between state and federal instrumentalities constituted an insurmountable obstacle, the Commonwealth of Australia was forced to turn to the British courts for assistance.¹⁷

The United States Constitution (Article III, Section 3) defines treason as the act of levying war against the nation or adhering to the nation's enemy by providing aid and comfort, whether within the country or outside. It also includes the requirement of proof from direct testimony of two witnesses to the overt act. Unlike the British, and undoubtedly influenced by American revolutionary tradition, treason laws in the United States for the most part have been only "sparsely used."¹⁸ And again, unlike British practice, "not one man" has ever been executed for committing treason against the United States.¹⁹

After World War Two, a dozen American servicemen were brought before military tribunals with a single soldier executed when found guilty of desertion. At the same time, eleven American civilians were arrested as suspected traitors. Of those in Occupied Europe, nine had been employed as broadcasters on German shortwave networks based in Berlin; five of them were convicted of treason.²⁰ The American justice system gave no special consideration to convicted females. For example, Mildred Gillars, who had broadcast under the call sign of "Axis Sally," received a sentence of twelve years, part of which she served in the Alderson Federal Women's Reformatory where Iva Toguri later also became an inmate.

From the Pacific Theatre of War, three Americans were charged with having aided the enemy. John Provoo (a staff sergeant when taken prisoner in the Philippines) used his position to harm an American officer. Later, Provoo joined the POW broadcasting unit in Tokyo. Tomoya Kawakita, a civilian with dual Japanese American nationality who had been working in Japan when war broke out, became an interpreter in a Japanese mine and munitions factory where he

harshly treated Allied prisoners. Both Provoo and Kawakita were convicted of treason but managed subsequently to have their sentences ameliorated. Provoo, indicted twice, successfully appealed to have his verdict quashed on the grounds that he had been denied a speedy trial. Kawakita's death penalty verdict in 1948 was commuted to life imprisonment in 1953 by President Eisenhower, and in November of 1963, in one of the President's last directives, J. F. Kennedy pardoned Kawakita.²¹

Iva Toguri is the exception to the patterns of postwar treason trials. She faced court at the end of 1949, one of the last from World War Two, and received a ten-year custodial sentence and a hefty fine. Her insistence on retaining her American citizenship during her years in wartime Japan—instead of choosing the loophole of “voluntary expatriation” as did thousands of her countrymen in Japan—counted against her. By contrast the strategy adopted by American Nisei enabled them to “shed” their United States citizenship and transfer their allegiance with impunity to America's wartime enemy. After the Japanese defeat, these ex-Americans simply reapplied to the U.S. Embassy in Tokyo to have their American passports restored.²² Toguri's stoicism in the face of the extreme tenor of racism and misogyny that characterized her trial in California seemed also to inflame antagonism towards her. The trial and subsequent unsuccessful appeals took place at the conjunction of two corrosive social currents. The deep distrust that many Anglo-Americans at the time expressed towards all things Japanese, including Americans of Japanese descent, provoked the response from leaders in the Japanese-American community whereby, determined to demonstrate their patriotism at all costs, they shrank from the publicity of the trial of “Tokyo Rose.” None spoke out against the racism and the injustice that was Toguri's lot. Both community responses, the Anglo and the Japanese American, fed into a cold war paranoia that was manifest in the desire to exclude all individuals and groups who appeared not to fit the invented mold of the imagined American mainstream.

PART I

Broadcasting to Britain from Wartime Berlin

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Execution of the British Traitor: John Amery

In Wandsworth Prison on December 19, 1945, just before 9 A.M. and after the regular inmates had been moved to the exercise yards on the far side of the building, the governor and the chaplain escorted a slight young man from his cell to the execution chamber. Waiting for him was Albert Pierrepoint, already dressed in the hangman's khaki garb and black hood. The previous day, he had made the preparations; surreptitiously observing the prisoner to estimate height and weight to ensure the correct length of the noose and a counterweight of sand to enable a fatal drop that was quick and clean. The condemned man was led to stand on the trapdoor immediately below the noose while the hood was placed over his head and the rope around the neck. This done, the executioner stepped back and threw a lever. Instantaneously, the prisoner's body dropped, its weight severing the spinal column with a single jerk.¹

Almost immediately, the doleful tolling of a bell announced the prisoner's demise. Shortly afterwards, an official emerged through a small door in the main prison entrance and affixed two notices to the gate. The first recorded the time of the execution; the other, a surgeon's certificate, indicated that the prisoner, indeed, was dead. Hardly were these somber proceedings complete when a car, waiting since early morning in the nearby street, sped off. At the wheel was a young man in military uniform with a dark-headed woman weeping at his side.²

John Amery was the prisoner executed that day. Thirty-three years of age and the son of a prominent London family, he had been convicted three weeks before of High Treason. Specifically, he had pleaded guilty at the Old Bailey to eight charges of having offered aid and comfort to the king's enemies in wartime. The offenses encompassed three sorts of treasonous acts: broadcasting over enemy radio; giving talks and lectures on behalf of Germany; and encouraging British prisoners of war to join the military forces of Germany. The couple in the car was Amery's younger brother, Julian, a soldier recently returned from war service in the Middle East, and John's common-law French wife, Michelle Thomas.³