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## **Accused of the Crime, Doing the Time: Notes on Gordon Hirabayashi 1943–1945<sup>1</sup>**

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Lane Ryo Hirabayashi<sup>2</sup>

### INTRODUCTION

As anyone who has perused the topic knows, there has been an explosion of writing pertaining to the genre of prison memoirs since World War II. Perhaps, as some have noted, this is a sad reflection on the state of empire in the post-war world, as prison memoirs as a body of work are truly international in scope.<sup>3</sup> At the same time, because the United States has an unenviable record of imprisoning its own, there is equally rich literature in terms of the domestic scene.<sup>4</sup> Within the latter category, special consideration can be accorded to memoirs by prisoners of conscience.<sup>5</sup> Such

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<sup>1</sup> This paper is an extended version of a February 2012 presentation that Lane Ryo Hirabayashi delivered at The 25th Anniversary of *United States v. Hirabayashi Coram Nobis* Case: Its Meaning Then and Its Relevance Now, a conference hosted by Seattle University School of Law's Fred T. Korematsu Center for Law and Equality. The conference was dedicated to the commemoration of the coram nobis victory of the author's late uncle, Gordon Hirabayashi, twenty-five years after the Ninth Circuit Court of Appeals vacated his 1943 convictions. The author is grateful to conference organizer Professor Lorraine Bannai, who originally invited the author to reflect on how Gordon did his time; to Susan Carnahan, and James and Jay Hirabayashi for their advice; and to Marilyn C. Alquizola for her editorial comments on an initial draft. Whatever errors remain are the author's own.

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<sup>3</sup> See generally BARBARA HARLOW, *RESISTANCE LITERATURE* (1987) (providing an excellent survey that treats prison writing in terms of a wide range of authors, imprisoned in different countries, writing in different genres).

<sup>4</sup> See generally *DOING TIME: 25 YEARS OF PRISON WRITING* (Bell Gale Chevigny ed., 2011) (providing a very useful and interesting resource in this regard is the anthology).

<sup>5</sup> Because, in the United States, the issue of who is a "prisoner of conscience" is closely intertwined with inequities revolving around race and class, a useful analysis by Rose M. Brewer is well worth considering. Rose M. Brewer & Nancy A. Heitzeg, *The Racialization of Crime and Punishment*, 51 AM. BEHAV. SCI. 595, 625–44 (2008). For an insightful essay, focusing on the international dimension, see Gerard A. Hauser,

persons often land in jail not because of a criminal offence, but because a principled stand impels them to resist.<sup>6</sup> Then a relevant question becomes how prisoners of conscience do time, which is worth considering even if it can only be tentatively explored here.

This topic immediately resonated within me as soon as my father explained, in the mid-2000s, that he had found my uncle Gordon K. Hirabayashi's wartime diaries and correspondence in his personal files in Alberta, Canada. Gordon's resistance had to do with his objections to the curfew against and removal of persons of Japanese ancestry in 1942; he refused to comply with both orders and was summarily tried, convicted, and sentenced for his transgressions. When my father invited me to work up a manuscript based on Gordon's diaries and letters, I wondered what I would learn about Gordon's overall state of mind when he was incarcerated between 1943 and 1945.<sup>7</sup> As I approached reading his wartime writing, I had, quite frankly, expected to find a great deal of distress and anxiety reflected in the twenty-four-year-old's letters and prison reflections. Instead, I found a very poised, thoughtful, spiritual person who faced his daily challenges and longer-term travails with a sense of humor. All in all, I believe that Gordon was able to endure his incarceration in the King County

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*Prisoners of Conscience and the Counterpublic Sphere of Prison Writing: The Stones that Start the Avalanche*, in COUNTERPUBLICS AND THE STATE 35 (Robert Asen & Daniel C. Brouwer eds., 2001).

<sup>6</sup> Brewer & Heitzeg, *supra* note 5.

<sup>7</sup> What I have to say in this paper deserves a fuller explanation in terms of my relationship to Gordon. I am Gordon's nephew. I was born after the war, and did not grow up anywhere near Gordon's immediate family. I saw Gordon occasionally when I was young, but did not really get to know anything about him at a personal level until I was in my fifties. How did this transpire? In 2005, at the invitation of Gordon's wife, Susan, my father, James Hirabayashi, went up to Edmonton, Alberta, Canada, to help her sort through Gordon's papers. One goal was to identify materials in Gordon's personal files that would be suitable to donate to the Japanese Canadian Museum. In the course of sorting, Jim found a number of files that included my uncle's wartime diaries and correspondence, all of which were unpublished. So the medium for my getting to know Gordon in some depth had to do with reading his letters and diaries from the period between 1943 and 1945, more than sixty years after he had written them.

Jail, a government labor camp in the Catalina Mountains of Arizona, and the McNeil Island Penitentiary, and grow through these experiences, because of his personal background, on the one hand, and because of the way he did his time, on the other hand.

In this article, I will try to outline these dimensions of Gordon Hirabayashi's story in the hope they will inform readers who are curious about idealists who take it upon themselves to resist injustice in their everyday lives and are imprisoned for their efforts.

#### FAMILY BACKGROUND

As part of the background for reading Gordon's wartime writing, I began to review various files that both my father and I had collected on topics related to Gordon and the Hirabayashi family. Although we had been doing this for the better part of forty years, I gained a more in-depth understanding of a man with whom I had been only slightly acquainted. As I read more about the Hirabayashi family, several points were salient. First off, religious faith was important in the Shungo/Mitsu Hirabayashi family. As my father, Jim, had told me on many occasions, the Hirabayashi family and their friends were imbedded in a deeply religious community. They had practiced their religion in Japan as adherents of a non-church Christianity, or Mukyokai, and they continued their traditions as new immigrants in the Seattle, WA, area.<sup>8</sup> Items such as popular music, gambling, and swearing were not allowed in the house while my father and his siblings were growing up.

Although there was only a small group of men who came from my grandfather's hometown of Hotaka, hometown and regional ties to the prefecture of Nagano were an important vehicle for sociability and

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<sup>8</sup> My grandparents belonged to a unique "non-church" Christianity that was developed by the Japanese Christian, Uchimura Kanzo. *See generally* MIYABARA YASU HARU, HOKORITE ARI: "KENSEI GUJIKO" AMERIKA E WATARU (1988) (one of the most extensive accounts of this congregation is presented in this book).

economic survival in the United States.<sup>9</sup> Because new immigrants from Japan were denied naturalization rights, they did not have access to dominant society institutions like credit unions or savings-and-loans. Pooling their limited resources, including labor, was a common practice before the war. Similarly, my dad's family also had a collective approach to household economics. My father remembered that there was a collective "cookie jar" in which any money the boys earned went in for family expenses. At the same time, however, if there were ever any school-related needs that the Hirabayashi children had, those took precedence, since my grandparents firmly believed in the value of education.

Another important aspect of our family's history is that the extended Hirabayashi family and friends were able and willing to fight for their rights. When the government's lawyers tried to take the family's White River Garden away after the state Alien Land Law passed in 1921<sup>10</sup> simply because it was put in the name of a Nisei (American-born child), the Katsuno and the Hirabayashi families went to court. They lost, and the State of Washington escheated the property, but the very fact that they resisted had an impact on the young Gordon who was aware of what had happened and why it had happened.<sup>11</sup>

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<sup>9</sup> In the 1970s and 1980s, I carried out extensive research on what I called "migrant village associations." Migrant village associations are frequently formed by rural-urban migrants in Asia, Africa, and Latin America, and groups along these lines were certainly central for my grandfather and his compatriots from the town of Hotaka and the province of Nagano, Japan, when they came to the United States during the early 1900s. For a discussion of conceptual tools that can be utilized to study the material and cultural dimensions of these forms of mutual aid, see LANE RYO HIRABAYASHI, *CULTURAL CAPITAL: MOUNTAIN ZAPOTEC MIGRANT ASSOCIATIONS IN MEXICO CITY* (1993).

<sup>10</sup> Alien Land Bill of Mar. 8, 1921, ch. 50, 1921 Wash. Laws 156, *repealed by* Act of Mar. 21, 1967, ch. 163, § 7, WASH. REV. CODE ANN. § 64.16.005 (Supp. 1987).

<sup>11</sup> *See generally* JAPANESE CONSULATE, *DOCUMENTAL HISTORY OF LAND CASES AFFECTING JAPANESE IN THE UNITED STATES, 1916–1925* (1925) (two-volume book, published by the Japanese Consulate, that describes the White River Garden case in detail).

## ACCUSED OF THE CRIME

Gordon did well in school, where he studied subjects that one might not expect, such as German, and engaged in a surprising range of activities, including Hi-Y (the high school chapter of the YMCA), the Boy Scouts, and sports teams, including basketball and baseball. He also sang in glee club and was in a number of high school theater productions. In a caption of his photo in the 1935 *Invader*, the Auburn High School yearbook, his classmates characterized him as “a true gentleman.”<sup>12</sup>

These broad interests continued at the University of Washington (UW) where Gordon affiliated with organizations such as the Japanese student club and the YMCA. Even if Gordon had encountered racism at a fairly young age, and again in the context of the Y, these experiences did not daunt or discourage him. During this same time, Gordon and his friends visited various churches and congregations until he finally joined the University “Religious Society of Friends,” otherwise known as the Quakers.

When the United States entered World War II in December 1941, Gordon quit attending the UW and went to work for UW professor Floyd Schmoe, who ran the Seattle branch of the American Friends Service Committee (AFSC). The AFSC labored to help Japanese Americans settle their affairs and prepare for removal. Keeping careful track of how things evolved, Gordon was aghast.

He decided fairly quickly that he was going to resist what was happening in front of him. He wrote out a statement objecting to both curfew and mass removal/incarceration. On the appointed day, he met his lawyer, Arthur Burnett. They went down to the Federal Bureau of Investigation office, where Gordon presented his written statement and turned himself in to the authorities.<sup>13</sup> He was immediately detained and subject to confinement in

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<sup>12</sup> AUBURN HIGH SCHOOL YEARBOOK: INVADER (1935) (on file with author).

<sup>13</sup> Declassified FBI File of Gordon K. Hirabayashi (on file with author) (containing perhaps the only contemporaneous description of Gordon’s arrest—from the point of view of Seattle field agents, anyway).

the King County Jail.<sup>14</sup> Soon enough, Gordon was tried and sentenced.<sup>15</sup> In all, although Gordon was never confined in a camp per se, he spent almost a year in jail for this piece of resistance.<sup>16</sup>

#### DOING THE TIME

When I first started reading some of Gordon's diaries and letters from jail, a number of questions rose in my mind. How did Gordon steel himself in order to face imprisonment? And wasn't he daunted by the magnitude of the task of taking on the federal government, its legal teams, justice system, and penal institutions? Also, did depression or despair ever get to him?

Somewhat to my surprise, it was not like that at all. To be sure, Gordon had to make some adjustments in adapting to jailhouse conditions. To address the question of how he did his time, in the paragraphs below, I have selected some passages from Gordon's diary that provide an overall sense of Gordon's frame of mind during his confinement. In looking at these passages, we must remember that Gordon was a young man: a twenty-four-year-old university student who had never been in trouble with the law when he entered Seattle's King County Jail following his initial arrest.<sup>17</sup>

Jail was not a very salubrious environment.<sup>18</sup> Gordon noted, on a variety of occasions, the day-to-day conditions he endured.<sup>19</sup> Unpleasant experiences included the very mundane such as upset stomachs, apparently the result of insalubrious prison food.<sup>20</sup>

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<sup>14</sup> *Id.*

<sup>15</sup> *Id.*

<sup>16</sup> *Id.*

<sup>17</sup> Gordon was 24 years old—a couple of years older than most college seniors—because he had to periodically drop out of school and work full-time in order to earn money to pay his college tuition.

<sup>18</sup> All quotes in this section are from Gordon's personal diary, kept while he was held in Seattle's King County Jail, 1943. Personal Diary, Gordon K. Hirabayashi (1943) (on file with author).

<sup>19</sup> *Id.*

<sup>20</sup> *Id.*

Last weekend, my stomach kicked back on me. I was feeling terrible. The cells being as close and open-aired as they are, the fellows can hear distinctly the results of my revolting stomach. The next morning, no less than six persons came around in all sincerity to ask how I was feeling. . . . Who would have expected “jail birds” to be sympathetic and concerned about something not directly connected with them?<sup>21</sup>

While he initially practiced ingrained habits of personal cleanliness and hygiene, after a while, Gordon noted that these became more difficult to maintain.<sup>22</sup>

When I first came to this place . . . I was so careful and particular about the dust and filth in here. . . . While I used to throw away my food if I discovered a dead cockroach in it or saw a live one crawling on it, I now merely remove the thing and nonchalantly continue my dinner.<sup>23</sup>

How specifically did Gordon sustain himself while confined? His diary and letters reveal a host of resources.<sup>24</sup> Gordon read a great deal in jail, and many of the titles he mentions are philosophical and religious.<sup>25</sup> Gordon wrote:

Have been doing quite a bit of reading. Clarence Darrow’s [biography] *For the Defense* was a real education. I am now engrossed [in] Oscar Wilde’s “De Profundus.” He gives some very interesting insights into Christ’s life. “Christ, like all fascinating personalities had the power of not merely saying beautiful things himself, but of making others say beautiful things to him.”<sup>26</sup>

Gordon clearly wrote a great deal while he was in jail, both in terms of keeping a diary, but also in terms of sustaining an active and varied

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<sup>21</sup> *Id.*

<sup>22</sup> *Id.*

<sup>23</sup> *Id.*

<sup>24</sup> *Id.*

<sup>25</sup> *Id.*

<sup>26</sup> *Id.*



correspondence with a wide range of people.<sup>27</sup> Reading letters from and writing letters to family, friends, and associates were clearly something that occupied Gordon's time in prison while also lifting his spirits.<sup>28</sup>

Recently June Mott sent me a can of popcorn via mail, and even with our hungry horde of six men, we made it last for a few days. Gee, it was good!<sup>29</sup>

Of another friend and supporter, Gordon fondly wrote:

Only a few days ago I received a nice cheerful letter from Ray Roberts. He suggested that if developments are not forthcoming, we will simply have to ask the judge for a decision. I was very pleased to hear this; it promises action. Enclosed in the letter was a \$5.00 gift. "You told me that you were getting along alright but your words did not fully convince me so I am enclosing \$5.00 to help you get a little extra food when you can." Can you beat a fellow like that?<sup>30</sup>

Gordon's correspondence and diary entries are frequently punctuated with references to his family, especially his parents, as well as his younger siblings.<sup>31</sup> One example reads as follows:

An excited report from Tule Lake reveals plans for Eddie to leave camp for the sugar beet fields of Utah. "Just a first step out" says Ed. "A step towards becoming a free man" was Mom's hopeful comment.

I sincerely hope and pray that this move will mean not only Ed's entrance into fairly normal life again, but also the opening wedge for the rest of the family. That being so will, of course, mean that thousands of others will be leaving camp, also.<sup>32</sup>

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<sup>27</sup> *Id.*

<sup>28</sup> *Id.*

<sup>29</sup> *Id.*

<sup>30</sup> *Id.*

<sup>31</sup> *Id.*

<sup>32</sup> *Id.*

Gordon had many visitors, and it is clear from his diary and his letters that these visits buoyed his spirits.<sup>33</sup> Some of the people who came to see Gordon were quite distinguished.<sup>34</sup> Gordon mentions, for example, Seattle-area AFSC leaders who he knew before the war, like Professor Floyd Schmoe, as well as Washington State politicians, like Mary Farquharson, and internationally known Quaker leaders, like Homer Morris.<sup>35</sup>

Then came my old Buddies—Jack, Bert, and Bill. . . . It's good to see old associates—it's amazing how fast your former experiences come back to you. A familiar face is the most adequate bridge. It had seemed such a long time ago that I was a student living at Eagleson [Hall, UW]. . . . But their visit bridges all.

Back-tracking a little more, this time to Saturday last, I had the rare opportunity of visiting with Nevin Sayre and Bayard Rustin of the FOR [Friends of Reconciliation]. . . . The visit was not very long, but they are certain[ly] inspiring to me. . . . It was truly one of the most deep[ly] felt and satisfying moments I've had since coming here.<sup>36</sup>

Gordon's interactions with his cellmates provided some of the most interesting observations in his diary.<sup>37</sup> He wrote about his fellow prisoners as well as his guards.<sup>38</sup> And although Gordon was a UW senior when first incarcerated, it is clear that he received an education in jail that he was not getting in college.<sup>39</sup> In talking to a new inmate, who was apparently a fairly experienced criminal, Gordon noted:

I learned all about rackets (sp.)—white slavery, prohibition, narcotics, lottery, unions, etc. Even many churches and sects were

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<sup>33</sup> *Id.*

<sup>34</sup> *Id.*

<sup>35</sup> *Id.*

<sup>36</sup> *Id.*

<sup>37</sup> *Id.*

<sup>38</sup> *Id.*

<sup>39</sup> *Id.*

cited as rackets. A very prominent Seattle minister, now deceased, was mentioned as the underhand backer of a prostitution ring.<sup>40</sup>

Isn't there anything good? Can't honesty prevail? Yes, but it's hard, and the world is evil. More power to them who can maintain their principles.<sup>41</sup>

As it turned out, Gordon was popular in jail, and in a couple of instances, was elected to be the prisoner's representative; in one particular institution he was even calling himself the "mayor" of his cell block.<sup>42</sup>

Incarceration in the King County Jail was also the period in which he fell in love with Esther, the daughter of AFCS director Floyd Schmoie.<sup>43</sup> Their romance, which blossomed while Gordon was confined, later evolved into a marriage offer made good when Gordon was released on bail in 1944.<sup>44</sup> One of his files is filed with a plethora of courtship and love letters.

Finally, there were entries that provided insights into Gordon's attitude.<sup>45</sup> His self-assessment and confidence in his stance provided the basis for a sense of purpose that prepared him for what he had to endure.<sup>46</sup> The best illustrations of all this come from passages in his diaries and letters that are reflective of Gordon's philosophical meditations while in jail.<sup>47</sup>

It was an awfully cold day today. And of all times to have the heat off. Not once did we have the radiators steamed for us; it is now 11 p.m. and my feet are still icy. I can't quite explain it; I seldom get in a meditative mood when I'm practically freezing. But today my mind kept whirling around the idea of life. What a mysterious thing it is. . . .<sup>48</sup>

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<sup>40</sup> *Id.*

<sup>41</sup> *Id.*

<sup>42</sup> *Id.*

<sup>43</sup> *Id.*

<sup>44</sup> *Id.*

<sup>45</sup> *Id.*

<sup>46</sup> *Id.*

<sup>47</sup> *Id.*

<sup>48</sup> *Id.*

Last night I lay quietly on my bunk. The soft lights from the hall seeped through the bars and illuminated the far inside wall. All was quiet; only in the distance could I hear sounds of peaceful slumber. . . . I lay quietly and gazed up on the dim ceiling, meditating. In this deep stillness I realized that this [i.e., the conviction of one of Gordon's friends] was but one unique case of tragedy caused by this war. How many, many more must there be of similar tragedies. It was a long while before I fell asleep.<sup>49</sup>

#### PROTESTING RACIAL SEGREGATION AT MCNEIL ISLAND PENITENTIARY

Finally, a brief exposition of his resistance to racial segregation in the McNeil Island Federal Penitentiary serves as another excellent example of the reflexive dimension of Gordon's ruminations in jail and of how Gordon drew from his religious convictions in order to look at and respond to the penal practices of the day.<sup>50</sup>

At the end of 1944, after Gordon refused to sign the Draft Board's loyalty questionnaire, which was required for Japanese Americans, he was convicted of refusing to comply with induction and sent to the federal penitentiary at McNeil Island.<sup>51</sup> Upon arrival, he was stripped, given prison wear, and assigned the identification number 1400.<sup>52</sup> Gordon was held along with other newcomers in the "fish tank" for thirty days and then released to one of the "dorms" on the prison farm.<sup>53</sup> At that point there were three dorms: two for whites and one for all nonwhites.<sup>54</sup> When Gordon was sent to the dorm, he reported the following in his diary:

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<sup>49</sup> *Id.*

<sup>50</sup> All quotes in this section are from Gordon's personal diary that he kept while he was held in McNeil Island Federal Penitentiary. Personal Diary, Gordon K. Hirabayashi (1944) (on file with author).

<sup>51</sup> *Id.*

<sup>52</sup> *Id.*

<sup>53</sup> *Id.*

<sup>54</sup> *Id.*

I heard my name called by the night officer. I went over to pick up my gear and here's this guy, Cory. I asked, "Hey, how come you aren't moving?" He said, "Well, they didn't call my name. They just called yours and three others." Turned out to be me, two Indians, and a Black.<sup>55</sup>

Right away, Gordon thought that this all seemed "fishy," and he immediately began to raise questions with the night guard, who simply told him to obey orders.<sup>56</sup> Not willing to let this go, Gordon continued to inquire about procedure until the guard seemed ready to explode with rage.<sup>57</sup>

Later, the superintendent called Gordon to his office to see what the problem was.<sup>58</sup> Gordon asked if the prison practiced racial discrimination (which Gordon thought was actually kind of silly, since racism was so patently rampant in the penitentiary).<sup>59</sup> To Gordon's surprise, the superintendent replied, "Of course not."<sup>60</sup> That gave Gordon the opening to give the warden a written account of who from his group in the fish tank was reassigned where, thus calling into question the racial criteria that were used in making the decision.<sup>61</sup> According to Gordon, the superintendent looked at the list for a while and then said he wanted to check it out.<sup>62</sup> "Let me study this, I'll call you in later."<sup>63</sup> About a week later, Gordon was moved to a previously all-white section of the penitentiary,<sup>64</sup> and the predominantly nonwhite section had some Caucasians assigned to it after that as well.<sup>65</sup> And although Gordon thought that he might be punished for

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<sup>55</sup> *Id.*

<sup>56</sup> *Id.*

<sup>57</sup> *Id.*

<sup>58</sup> *Id.*

<sup>59</sup> *Id.*

<sup>60</sup> *Id.*

<sup>61</sup> *Id.*

<sup>62</sup> *Id.*

<sup>63</sup> *Id.*

<sup>64</sup> *Id.*

<sup>65</sup> *Id.*

all his objections, nothing happened to him.<sup>66</sup> At the end of this incident, he noted in his diary:

In prison you could deteriorate, mentally and morale-wise, so some of us thought of creative ways to protest.<sup>67</sup>

#### CONCLUSION

In summary, I have extracted from Gordon's writing a list of his prison survival activities. These helped to keep his mind and spirituality healthy, to wit:

- He wrote a great deal, in terms of both letters and diary entries.
- He read a great deal in jail, perusing all kinds of books and journal articles.
- He had a wide range of visitors who buoyed his spirits.
- He interacted a great deal with fellow inmates.
- He elicited a great deal of moral support, both inside and outside of prison.
- He fell in love while in jail.
- He thought about and practiced his Quaker beliefs and principles in jail, even, on occasion, protesting injustices that he encountered when the opportunities presented themselves.

In essence, Gordon "spoke truth to power," but he was also very willing to try to put his principles into action. This stance in particular gave meaning and empowerment to a young man who was in an otherwise possibly overwhelming situation. Finally, one cannot discount the personal bravery of an individual who was not afraid to put his beliefs in social justice into rigorous practice, oftentimes without knowing what the exact price would be.

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<sup>66</sup> *Id.*

<sup>67</sup> *Id.*