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CHESTER ROWELL: General Emmons Has Settled Japanese Issue. Editorial in San Francisco CHRONICLE, September 20, 1943.

The excellent statement of General Delos Emmons regarding military policy toward the return to the Pacific Coast of the Japanese-American evacuees should satisfy everybody except those who want something which neither General DeWitt, General Emmons nor anybody else could do. That is a present pledge that, regardless of future and unpredictable military conditions, none of these Japanese-Americans will be returned to California at least until the last treaty of peace with the last nation in the war is signed, ratified and put into effect.

In fact, even this is not what the loudest and most persistent of the agitators want. What they seek--and some of them have formally and publicly said so--is the permanent exclusion of all persons of Japanese ancestry from any part of California. Indeed, many of them also urge that the constitutional citizenship to which they were born be revoked, and that all persons with any fraction of Japanese blood be made permanently ineligible to American citizenship, by either birth or naturalization.

That there are persons who wish this is undoubted. In fact, they say so. But there are some things that simply cannot be done, no matter who wants them done. For the constitution of the United States is still the supreme law of the land, binding on all legislative and executive officials. State and national, and on all courts. It is binding even on the majority of all the people, unless and until by the methods provided in the constitution, they amend out of it the rights guaranteed in the bill of rights to individuals and minorities. And nobody has even proposed such an amendment.

In a military emergency, some things can be done, by military order, on military grounds. This has been done by General DeWitt, and is now continued by General Emmons, under authority delegated by the President, as commander in chief. Whether this order by the President and the military action under it were themselves constitutional may be academically debatable, and may ultimately come before the courts for their decision. But as a matter of practical policy, none of us are debating it, and the question is not raised.

In time of war we take orders and let their validity be determined later, if at all after the military situation has become history. This is what happened after the Civil War, when certain orders of President Lincoln were declared to have been unconstitutional, in a decision written by one of his own appointees to the Supreme Court. The same thing is happening now, and the question of any change in the policy already adopted by both Generals does not exist as a practical problem.

Neither does the question of making permanent, as a civil policy, a temporary military order, based expressly on military conditions. Neither General DeWitt nor General Emmons ever claimed any authority or purpose to take any such course, and they would have been acting contrary to their own orders and in excess of their authority if they did.

As a matter of law there is no question about this at all. The only contrary opinion is that of the chairman of a committee of the Native Sons, echoed almost verbatim in an argument before the Federal Circuit Court by former Attorney General Webb, which the court turned down, from the bench, summarily and unanimously without even retiring for consultation.

And as a matter of orders, it is equally clear. General Emmons has put it excellently. So long as the military situation exists there is and will be no change in the military policy. When and if the military situation ceases, so will his

authority and jurisdiction, and the matter will return automatically to the civil authorities, under the civil law. He hopes they will settle it, among themselves, and will, if desired, help them in any way within his power. That is all, and it is the whole story.

Since the question, in its practical form, is thus settled, and since, in the form desired by the agitators, it does not exist and cannot be brought into existence, there is no reason but confusion for discussion of it. Practical men face facts, and the practical facts, in this case, include the constitution of the United States, the uniform decisions of the courts on it, and the military orders, all of which are coherent, consistent and intelligent.

If there are those who do not like these facts--and there are--they should inquire of the nearest person who happens to have read the constitution of the United States (how few these are!) who there is who has authority to do anything about it. And if the answer is--as it will be--"Nobody," then that is a fact, too.

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