

dice, the gap they left has closed in two years. Except for the few who own land, they would have to build in California as patiently as they now do in the East. They have been more thoroughly dislocated than they realize as they think nostalgically about California.

No one can gauge how soon the prewar unwillingness to accept charity or government relief deteriorates into a not-unpleasant habit of security. It is too much to expect of any people that their pride be unbreakable. Some of the old farm women who were "stoop labor" all their lives, even after their Nisei sons' landholdings or leased acres became sizable, have had the first rest in their history. Most of the old bachelors who had always been day laborers frankly enjoy the security of the centers.

If the war lasts eighteen months more, and if WRA has succeeded in finding places for 10,000 more Japanese-Americans in that time (and WRA hopes to do far better), it will be a job well done. That would leave some 45,000 in the relocation centers, as continuing public wards, not to mention over 20,000 at Tule Lake and the Department of Justice internment camps. Whatever the final residue, 25,000 or 45,000, it is certain that the "protective custody" of 1942-44 cannot end otherwise than in a kind of Indian reservation, to plague the conscience of Americans for many years to come.

"MILITARY NECESSITY," "PROTECTIVE CUSTODY"

Eventually suits by Japanese Americans for recovery of property may come before the higher courts. Currently the U. S. Supreme Court is considering several habeas corpus cases arising out of the "protective custody" of American Japanese citizens. One is the appeal against detention of Fred Toyosaburo Korematsu of San Leandro, California, a native of Oakland who has never left the U. S. and whose loyalty has never been determined by the government. Ordered out of San Leandro by the Army, he deliberately stayed there, for which he was eventually put on five years' probation. He was then sent to a relocation center. In appealing, Korematsu's attorneys denied any reasonable basis of military necessity for the military evacuation orders.

The second case, far more interesting for it concentrates not on a quasimilitary question but on one of the

fundamental rights of citizens, is the appeal of Mitsuye Endo, a native of Sacramento, who has never been outside the U. S. and whose loyalty has been determined by the government. Ordered into detention by the Army in Sacramento, she was eventually transferred to an Idaho relocation camp. There she is detained and, according to present rules, must remain until she applies for and obtains indefinite leave from the WRA. Her suit aims at obtaining release without application to the WRA or leave therefrom. Her attorney argued that the federal government has no constitutional right under the war power or otherwise to detain a loyal American citizen even for his own so-called benefit (i.e. in protective custody). Solicitor General Charles Fahy argued that under the war power the government has authority to provide for orderly relocation of such persons as it had war power to evacuate. Of course, even if Miss Endo were to win, she could not return to California or go to certain parts of Washington and Oregon. But should she win, the effect would be tantamount to putting the WRA on notice that it must allow every citizen in a relocation camp to leave at his own pleasure and to proceed to any point from which he is not barred by military order. The entire legal basis of the relocation camps would have been removed. But the WRA would not be in a position to close the camps immediately for, as noted above, many a Nisei would stay put. Perhaps even after peace we would still have with us these camps that purported to be war phenomenon. The WRA would then have turned into a kind of WPA for Nisei permanently damaged because the Administration had misinterpreted its powers under the Constitution. The Supreme Court might give a decision as early as December 15. But even if its result were to outlaw the entire program of evacuating U. S. citizens, that would not undo the record. It is written not only in military orders, in American Legion resolutions, Hearst headlines, and Supreme Court archives. It is written into the lives of thousands of human beings, most of them citizens of the U. S.

When future historians review the record, they may have difficulty reconciling the Army's policy in California with that pursued in Hawaii. People of Japanese blood make up more than one-third of the Hawaiian Islands' population, yet no large-scale evacuation was ordered after Pearl Harbor and Hickam Field became a shambles. Martial law was declared; certain important constitutional rights of everyone were suspended. The Department of Justice and the military authorities went

about their business, rounded up a few thousand suspects. In Hawaii, unlike California, there was no strong political or economic pressure demanding evacuation of the Japanese-Americans. Indeed, had they been removed, the very foundation of peacetime Hawaiian life, sugar, and pineapple growing, would have been wrecked. General Delos C. Emmons, who commanded the Hawaiian district in 1942, has said of the Japanese-Americans here: They added materially to the strength of the area."

For two and a half years the West Coast "military necessity" order of March, 1942, has remained in force--an unprecedented quasi-martial law, suspending a small minority's constitutional rights of personal liberty and freedom of action. Those loyal evacuees who can take jobs in war plants in the East have reason to ask why they are forbidden to return to California to plant cabbages. Mr. Stimson and other authorities have assured the nation that the Japanese enemy is not coming to our shores. The Pacific Coast is now a "defense command," no longer "a theatre of operations," in the Army's own terminology. Each month the March, 1942, order seems more unreasonable.

Perhaps the Army forbids the evacuees to return home less for military reasons than because of strong California pressures and threats. The Hearst papers on the Pacific Coast promise pogroms if any Japanese citizen or alien is permitted to come home. The McClatchy chain also continues to agitate exclusion. New groups like the Home Front Commandos of Sacramento have risen to cry: "They must stay out--or else." Groups like the Salinas Vegetable Grower-Shipper Association and the California Grange, the American Legion and the Sons and Daughters of the Golden West reiterate the theme of or else. Politicians listen and publicly urge that the despised minority be kept out of California for the duration.

These are Californians who care about civil liberties and human justice and see the grave danger of continued quasi-martial law but they have difficulty getting their side heard. The California C.I.O., the League of Women Voters, and segments of the church are all putting up a fight against continued "protective security." They work side by side with the Committee on American principles and Fair Play, a group that includes such distinguished Californians as President Robert G. Sproul of the University of California, Ray Lyman Wilbur, and Maurice E. Harrison. They, the passage of time, the reports of the Nisei combat

exploits at the front, and the favorable reaction of many American communities to the evacuated Nisei newly settled among them have all made an impression. Following the lead of many U. S. newspapers, some of those in California have latterly printed articles favorable to the Nisei. A petition for new anti-Japanese-American legislation failed, after six months of circulation, to get the 178,000 signatures needed to compel putting the question on California's November ballot.

Lieutenant General John L. DeWitt, who ordered the evacuation in 1942, said, "I don't care what they do with the Japs as long they don't send them back here." General Delos C. Emmons, who succeeded DeWitt on the West Coast in September, 1943, is the same General Emmons who decided not to order wholesale evacuation of the Japanese from Hawaii. He was succeeded last June by Major General Charles Bonesteel. The Army has permitted a few Nisei to return and Bonesteel has said that every "application for leave" to return would "be given full and careful consideration and our best judgment." But the effects of such piecemeal action must remain petty.

The longer the Army permits California and the rest of the Pacific Coast to be closed to everyone of Japanese descent the more time is given the Hearst papers and their allies to convince Californians that they will indeed yield to lawlessness if the unwanted minority is permitted to return. By continuing to keep American citizens in "protective custody," the U. S. is holding to a policy as ominous as it is new. The American custom in the past has been to lock up the citizen who commits violence, not

the victim of his threats and blows. The doctrine of "protective custody" could prove altogether too convenient a weapon in many other situations. In California, a state with a long history of race hatred and vigilanteism, antagonism is already building against the Negroes who have come in for war jobs. What is to prevent their removal to jails, to "protect them" from riots? Or Negroes in Detroit, Jews in Boston, Mexicans in Texas? The possibilities of "protective custody" are endless, as the Nazis have amply proved.