

Loyal Nisei Can't Be Held In Camps, High Court Rules

'SUBS' SINK JAP CRUISER; 33 - SHIP BAG

By Associated Press.

American submarines have sunk 33 more Japanese ships, including a light cruiser, three destroyers and six escort vessels, a minesweeper and a minelayer, in their latest forays in the Pacific, the Navy reported today.

The new tally brings the total of enemy ships of all types sunk by submarines since the start of the war to 907, with 94 of them warships. Submarines have sunk 13 Jap cruisers and 43 destroyers. (See communique, Page 7.)

Superfortresses, probably 200 strong, hit vulnerable Nagoya, Japanese industrial city, and Hankow, China, today as American doughboys on newly invaded Mindoro in the Philippines made sharp gains, while fighting continued on Leyte.

Lieut. Gen. Millard F. Harmon, commander of the Strategic Air Forces, Pacific Ocean Areas, holds no hope that B-29 raids will knock Japan out of the war quickly and says "We expect Japan will be on her feet and fighting in 1946."

But, in Japan, Tokyo's influential newspaper Asahi views the invasion of Mindoro with trepidation and in an editorial warns victory there would give America "full control of tomorrow's military situation."

New Landing Feared

Domei, Japanese news agency, in an unconfirmed broadcast, said Nipponese planes sighted "an enemy fleet of considerable strength" in the Sulu Sea south of Mindoro, which may mean another invasion of a Philippines island is in the making or the Fleet is on the prowl for Japanese shipping.

Superfortresses, flying from bases in the Marianas, bombed Nagoya for two hours with approximately the same number of planes as left the Mitsubishi-owned Hatsudoki plane factory in flames December 15.

In the previous raid it was indicated at least 100 of the big bombers participated. None was lost over the target, but one was forced down at sea. Its crew was rescued.

Heavier Damage Revealed

GREEK FUNERAL MARCHERS PAUSE



IN ATHENS—Led by a banner painted with blood of dead demonstrators, a funeral procession pauses opposite the old Royal Palace December 4, scene of a clash with police the day before, as a band plays a Russian revolutionary funeral march.—A. P. wirephoto.

9 AUTOS PILE UP IN SKID; BUS ROUTES CHANGED

Skidding on ice, nine automobiles piled up in a traffic scramble in Fairview Avenue North on the trestle along the shore of Lake Union at the City Light steam plant about 7:35 o'clock this morning, causing bus service to be rerouted into Eastlake Avenue for 30 minutes.

No one was injured in the snarl, which resulted when one automo-



British Drive Lifting Greek Leftist Siege

By STEPHEN BARBER

Associated Press Foreign Staff

ATHENS, Dec. 18.—British forces launched a full-scale drive against Left-wing E. L. A. S. forces in Athens today and it appeared likely to be only a matter of hours before the siege of the capital is lifted.

Within a short time after jumping off at dawn the British had captured an E. L. A. S. stronghold on the highway leading from Athens through the summer resort of Phaleron to the Kalamaki Airport. The E. L. A. S. forces, estimated at about 200, had barricaded themselves in a brewery and were equipped with heavy machine guns.

The Kalamaki Airport already had been cleared to a depth of 300 yards and British armored vehicles were traversing the road from Athens to Piraeus.

Before the main attack began, British forces took Sikeliass Hill, due south of the Acropolis, which had been strongly held by the E. L. A. S.

The first goal of the British clean-up operations was to open the main highway between Athens, the port of Piraeus and Kalamaki Air-

JAP EVACUEES' RETURN AFTER JAN. 1 APPROVED

By Associated Press.

SAN FRANCISCO, Dec. 18.—Japanese removed from the Pacific Coast early in the war will be permitted to return to their former homes in California, Oregon and Washington after January 1.

Maj. Gen. Henry C. Pratt, chief of the Western Defense Command, announced yesterday that the War Department had decided to revoke its security order, under which the persons of Japanese ancestry were evacuated. The move, General Pratt said, was because of "favorable progress of the war in the Pacific, as well as other developments."

Henceforth, he said, they will be excluded only when the Army considers them, personally, dangerous. All persons not specifically excluded will be permitted to return.

L. A. Mayor Opposed

Reception of the announcement throughout the West was varied.

ARMY OUSTER OF JAPANESE HELD VALID

By Associated Press.

WASHINGTON, Dec. 18.—The Supreme Court of the United States today declared justified an order excluding Japanese from the West Coast which the Army applied in March, 1942, and revoked only yesterday.

The court's 6-to-3 opinion by Justice Black on the issues of exclusion did not rule on the constitutional questions involved.

In another opinion, the justices ruled unanimously that an American woman of Japanese descent was entitled to unconditional release from a War Relocation Authority center—because she was conceded to be a loyal citizen.

The opinion holding exclusion justified was given in the case of Fred Toyosaburo Korematsu, who was removed from his California home to a War Relocation Authority center in Utah.

Hardships Are Admitted

The court's majority opinion in his case held that the exclusion order should be affirmed "as of the time it was made and when the petitioner (Korematsu) violated it."

"In doing so," Black's opinion said, "we are not unmindful of the hardships imposed by it upon a large group of American citizens. But hardships are part of war, and war is an aggregation of hardships."

"All citizens alike, both in and out of uniform, feel the impact of war in greater or lesser measure."

"Citizenship has its responsibilities as well as its privileges and in time of war the burden is always heavier. Compulsory exclusion of large groups of citizens from their homes, except under circumstances of direst emergency and peril, is inconsistent with our basic government institutions. But when under conditions of modern warfare our shores are threatened by hostile forces, the power to protect must be commensurate with the threatened danger."

The court majority said in reference to the constitutional issues

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High Court

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that it was sufficient to pass only upon the order which Korematsu violated by refusing to leave the California area affected by the Army civilian exclusion order.

"To do more," the majority said, "would be to go beyond the issues raised and to decide momentous questions not contained within the framework of the pleadings or the evidence in this case . . .

"To cast the case into outlines of racial prejudice, without reference to the real military dangers which were presented, merely confuses the issue."

Korematsu was not excluded from the West Coast military area, the majority said, because of hostility to him or his race. It added:

"He was excluded because we are at war with the Japanese Empire, because the properly constituted military authorities feared an in-

visaged the possibility of an adverse affect on the 3,000 Filipinos in the Salinas Valley, many of whom are now working farms formerly operated by the Japanese.

In Washington, Secretary Ickes said today the Interior Department will expand its relocation program to send resettled persons of Japanese ancestry back to their West Coast homes.

At the same time, he expressed the belief that a large proportion of the more than 35,000 Japanese-Americans relocated in other parts of the country may choose to remain.

Ickes emphasized that there will be no "hasty mass movement" of evacuees.

18,700 at Tule Lake

The Justice Department is expected to take over and operate the Tule Lake (Calif.) segregation center for Japanese nationals and Japanese-Americans who have expressed a desire to return to Japan.

There are approximately 18,700 persons in the Tule Lake area—a barbed-wire enclosed camp. Most of these are Japanese citizens but some are Japanese-Americans who, despite having once become American citizens, have decided that their national feeling is with Japan. Of the total, about 5,000 are younger than 18 years of age and have been placed in the Tule Lake area because of the status of their parents or relatives.

vasion of our West Coast and felt constrained to take proper security measures, because they decided that the military urgency of the situation demanded that all citizens of Japanese ancestry be segregated from the West Coast temporarily, and, finally, because Congress, reposing its confidence in this time of war in our military leaders—as inevitably it must—determined that they should have the power to do just this.

Three Justices Dissent

"There was evidence of disloyalty on the part of some, the military authorities considered that the need for action was great and time was short. We cannot—by availing ourselves of the calm perspective of hindsight—now say that at that time these actions were unjustified."

Justices Murphy, Jackson and Roberts each wrote dissenting opinions. Justice Frankfurter wrote a separate concurring opinion.

Terming the exclusion "an obvious racial discrimination," Murphy said it was "one of the most sweeping and complete deprivations of constitutional rights in the history of this nation in the absence of martial law."

No immediate relation to an "immediate" public danger is evident, he said, "to support this racial discrimination."

Murphy said it was essential "that there be definite limits to military discretion, especially where martial law has not been declared."

Mass Action Deplored

"To infer," Murphy said, "that examples of individual disloyalty prove group disloyalty and justify discriminatory action against the entire group is to deny that under our system of law individual guilt is the sole basis for deprivation of rights."

Murphy said he found no adequate reason given "for the failure to treat these Japanese-Americans" on an individual basis by holding investigations and hearings to separate the loyal from the disloyal, as was done in the case of persons of German and Italian ancestry.

"I dissent, therefore," Murphy said, "from this legalization of racism. Racial discrimination in any form and in any degree has no justifiable part whatever in our democratic way of life."

Justice Roberts said he dissented "because I think the indisputable

facts exhibit a clear violation of constitutional rights."

Justice Jackson's dissent said:

"A judicial construction of the due process (of law) clause (of the Constitution) that will sustain this order is a far more subtle blow to liberty than the promulgation of the order itself. A military order, however unconstitutional, is not apt to last longer than the military emergency. Even during that period a succeeding commander may revoke it all.

"But once a judicial opinion rationalizes such an order to show that it conforms to the Constitution, or rather rationalizes the Constitution to show that the Constitution sanctions an order, he court for all time has validated the principle of racial discrimination in criminal procedure and of transplanting American citizens. The principle that lies about like a loaded weapon for the hand of any authority that can bring forward a plausible claim of an urgent need."

The unanimous decision by Justice Douglas involved Miss Mitsuye Endo, American citizen of Japanese descent.

No Ruling on Military Law

In the decision by Justice Douglas the court declined, however, to rule on the questions of military law involved in the case.

The Douglas decision explained: "We do not mean to imply that detention in connection with no phase of the (Japanese) evacuation program would be lawful."

In reaching its conclusion, the court said it did not "come to the underlying constitutional issues which have been argued. For we conclude that, whatever power the War Relocation Authority may have to detain other classes of citizens, it has no authority to subject citizens who are concededly loyal to its . . . procedure."

The court's decision came just a day after the War Department revoked its order by which persons of Japanese ancestry have been barred from strategic areas of California, Washington and Oregon. The Army revocation did not, however, extend to citizens of Japanese ancestry of known pro-Nipponese sympathies.

Born in California

Justice Roberts wrote a separate concurring opinion in which he said he felt that court was "squarely faced" with the constitutional rights of Miss Endo.

Miss Endo was born 24 years ago in Sacramento, Calif. Described by

Associated Press
AN AMERICAN FRONT-LINE CLEARING STATION, Belgium, Dec. 17.—(Delayed)—Weeping with rage, a handful of doughboy survivors described today how a German tank force ruthlessly poured machine-gun fire into a group of about 150 Americans, who had been disarmed and herded into a field in the opening hours of the Nazi counter-offensive.

"We had to lie there and listen to German non-coms kill with pistols every one of our wounded men who groaned or tried to move," said William B. Summers, technician, fifth grade, of Glenville, W. Va., who escaped by playing dead.

The Americans were members of an artillery-observation battalion ambushed and trapped at a road fork by a powerful German armored column of Tiger tanks, whose heavy guns quickly shot up the two dozen American trucks and lightly armored vehicles.

Entire Unit Surrendered

There were no heavy weapons in the American column and the entire observation unit quickly had to surrender.

"We were just moving up to take over a position at the top of a hill

the Justice Department as a loyal citizen, she demanded freedom from the center at Topaz, Utah, and a court declaration that she has the right to go anywhere she pleases.

Russ Buyers in U. S. Win Soviet Awards

MOSCOW, Dec. 18.—(AP)—The Supreme Soviet yesterday announced the award of decorations to more than 100 members of the Russian Purchasing Commission in the United States for "successful effort in supplying the Red army and navy with needed war supplies and materials."

Heading the list was Rear Adm. Mikhail Ivanovich Akulov, who received the Order of Lenin.

Baron Ikki Dies in Tokyo

NEW YORK, Dec. 18.—(AP)—Baron Kitokuro Ikki, 71 years old, former president of the Japanese Privy Council and one of Emperor Hirohito's personal financial advisers, died yesterday of pneumonia at his home in Tokyo, Domei, Japanese news agency, said. Baron Ikki was appointed to the Privy Council in August, 1917.