

HIGH COURT BARS NISEI REHEARING

WASHINGTON, Feb. 12.—(AP)—The Supreme Court of the United States refused today to reconsider a recent decision that the Army had a right to remove Japanese-Americans from the West Coast as a defense measure.

A rehearing was asked by counsel for Fred Toyosaburo Korematsu, who brought the appeal which resulted in the decision. Korematsu, born in California of parents who were nationals of Japan, was held for a time in a war relocation center in Utah.

His attorney said the decision was the "first historic example in which this court has rejected the concept of the Constitution as a shield and adopted the view that it is a sword that may be wielded without remorse against citizens and classes of citizens." He added that it "paves the road down which even now a regimented people is being compelled to march unwittingly to state socialism or state capitalism."

On the same day that the court ruled that the Army legally could remove Japanese from the West Coast it decided in another case that a Nisei, if proven loyal to the United States could not be interned.

The court agreed to study two cases involving the declaration of martial law and suspension of the writ of habeas corpus in Hawaii after Pearl Harbor.

President Roosevelt last October restored full authority of the civil government in the islands.

Harry E. White, Honolulu stock broker, asked the Supreme Court to determine if a military tribunal had authority to try him—a civilian—on a charge of embezzling a customer's funds in violation of a municipal law. The military court sentenced him to five years' imprisonment.

Lloyd C. Duncan, civilian navy yard worker in Hawaii, protested to the Supreme Court his trial before a military court on a charge of assaulting two marine sentries. The military court sentenced him to six months' imprisonment.

Duncan said the military trial took place after civil government had been restored. He argued that no military necessity exists for such procedure. The Ninth Federal Circuit Court of Appeals upheld the military courts in both cases.
