

# JAP INTERNMENT BY ARMY UPHELD

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SACRAMENTO, Calif., Sept. 2.—(P)— A federal court order, returned in what had been brought as a test case, today upheld the Army's authority to intern Japanese, both alien and native-born.

The order, entered by District Judge Martin I. Welsh of Sacramento, overruled a demurrer by the American Civil Liberties Union to the internment of Fred Toyosaburo Korematsu, an Oakland Japanese held at the Tanforan Race Track Assembly Center.

The union argued that President Roosevelt had no right to direct the Japanese round-up and Lieut. Gen. J. L. De Witt no right to execute the President's orders. Government attorneys contended that Congress had delegated full authority to the President and that De Witt was doing no more than obeying his commander-in-chief.

Judge Welsh submitted no opinion with his order, but A. J. Zirpoli, United States attorney at San Francisco, said he understood one was in preparation.

The opinion may be employed by Federal District Judge Michael J. Roche of San Francisco in ruling on a pending case of slightly different character. This is the petition brought by Miss Mitsuyo Ondo, former State Highway Commission employe, for release from a Modoc County relocation center for Japanese on grounds that, although the Army may have the right to exclude her from the Western military area, it has no authority to detain her once she has left the proscribed zone.

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