

"A Good People To Live Among" By MARSHALL CRANE

ON THE seventeenth of April last the California Supreme Court decided the case of Sei Fujii versus the State of California. The plaintiff, an alien Japanese, ineligible to citizenship under our naturalization laws, appealed from a judgment of the superior court declaring that certain land purchased by him had escheated to the state, without compensation, in accordance with the California alien land law. The judgment was reversed, in favor of Fujii.

The importance of this reversal (or so it seems to a layman) lies in the fact that the sole question at issue was the constitutional validity of the alien land law itself, which had been upheld by the United States Supreme Court in a number of cases in the past. It should be of interest also to every citizen as well as the three million aliens living in the forty-one states which restrict or forbid alien ownership of real property. Nine of these, of which California is one, make eligibility to citizenship the necessary condition. And to California's thirty thousand aliens of Japanese birth its importance can hardly be exaggerated. Their bill of rights now lacks only the right to citizenship, for which is required an amendment of the federal naturalization laws. And to those of all races to whom land is an all-important fact and factor in the social economy this confirmation of the fundamental equal right to occupy and use the land provides a very encouraging ray of light.

The court denied the appellant's first contention, that the land law has been invalidated and superseded by the United Nations charter provisions pledging the member nations to promote the observance of human rights and fundamental freedoms without distinction as to race, on the grounds that these are of the nature of terms of a contract, which must first be executed by the legislative branch of government before they can become rules for any court.

The second question was whether the alien land law violates the due process and equal protection clauses of the Fourteenth Amendment to the Constitution. Although both its spirit and letter have been violated many times, this amendment, since 1868, has been a tower of strength in the battle for human liberty. It was on this constitutional point that the case was finally decided.

It was asserted by the plaintiff that classification on the basis of eligibility to citizenship is arbitrary, for the reason that such discrimination bears no reasonable relationship to promotion of the public safety and welfare. Aliens are protected by the Constitution regardless of whether they desire or intend to become naturalized. Fujii contended that the effect of the law — and its original purpose as well — is to discriminate against certain aliens solely on the basis of race, and that such discrimination is arbitrary and unreasonable. Amendments to the naturalization laws, enacted during the early and middle forties, have made the Japanese almost the only ineligible aliens in California.

One purpose of the Fourteenth Amendment was to prevent racial discrimination. It guarantees to all persons equal protection of life, liberty and property. In the opinion of the court the right of the states to restrict or regulate the use and ownership of land is subject to the controls and limitations of this amendment to the Constitution of the United States.

It stated that all aliens lawfully in this country have a right to work for a living in the com-

mon occupations of the community, and to full protection of the law in doing so. This has not been easy for the Japanese of California, for the law prohibited not only ownership but leasing or holding any beneficial interest in the land as well. (Not long ago the alien husband of an American citizen of Japanese parentage was forced to leave his home and family because his living and working on a farm owned by her was regarded by the authorities as constituting a beneficial interest in it!)

These Asians on American soil have amply demonstrated their ability as farmers. Much of the land they work was originally sub-marginal, rocky hill and barren desert. It was just because they were so capable that the white farmers and orchardmen had the land law passed, to get rid of their competition.

No one can live without using land in some way. Everyone has some sort of need for or interest in it. The California law permits the leasing of residential and commercial property, but for thirty-two years it forbade the Japanese alien to work the soil except as a hired hand.

The court quoted a recent opinion of the Supreme Court of Oregon, which had a similar law: "Our country cannot afford to create, by legislation or judicial construction, a ghetto for our ineligible aliens. And yet if we deny to the alien who is lawfully here the normal means whereby he earns his livelihood, we thereby assign him to a lowered standard of living," and closed its own statement by saying, "Accordingly, we hold that the alien land law is invalid as in violation of the Fourteenth Amendment.

"The judgment is reversed."

It is encouraging when courts, state and federal, recognize that the use and ownership of land is a fundamental equal right of all men. Particularly when it seems very possible that more public officials will follow the example.

Benjamin Franklin once wrote to a friend in Europe that this country offers the stranger "a good climate, fertile soil, wholesome air, free governments, wise laws, liberty, a good people to live among, and a hearty welcome." That we have frequently failed to make his promise good has not done us less harm than it has done the stranger. Injustice seems to be an endemic disease of human society, but any and every recognition and correction of it is a step forward.

The Supreme Court of California decision in the Sei Fujii case is not only of national, but of international importance. It should certainly be studied and publicized by all supporters of the equal and inalienable human rights which Henry George did so much to protect and promote.