

109TH CONGRESS
1ST SESSION

S. RES. 126

Honoring Fred T. Korematsu for his loyalty and patriotism to the United States and expressing condolences to his family, friends, and supporters on his death.

IN THE SENATE OF THE UNITED STATES

APRIL 27, 2005

Mr. DURBIN (for himself, Mr. INOUE, and Mr. STEVENS) submitted the following resolution; which was considered and agreed to

RESOLUTION

Honoring Fred T. Korematsu for his loyalty and patriotism to the United States and expressing condolences to his family, friends, and supporters on his death.

Whereas on January 30, 1919, Fred Toyosaburo Korematsu was born in Oakland, California, to Japanese immigrants;

Whereas Fred Korematsu graduated from Oakland High School and tried on 2 occasions to enlist in the United States Army but was not accepted due to a physical disability;

Whereas on December 7, 1941, Japan attacked the United States military base at Pearl Harbor, Hawaii, forcing the United States to enter World War II against Japan, Germany, and Italy;

Whereas on February 19, 1942, President Franklin D. Roosevelt signed Executive Order number 9066 (42 Federal Register 1563) as “protection against espionage and against sabotage to national defense”, which authorized the designation of “military areas . . . from which any or all persons may be excluded, and with respect to which, the right of any person to enter, remain in, or leave shall be subject to whatever restriction the . . . Military Commander may impose in his discretion”;

Whereas the United States Army issued Civilian Exclusion Order Number 34, directing that after May 9, 1942, all persons of Japanese ancestry were to be removed from designated areas of the West Coast because they were considered to be a security threat;

Whereas in response to that Civilian Exclusion Order, Fred Korematsu’s family reported to Tanforan, a former race-track in the San Francisco area that was used as 1 of 15 temporary detention centers, before being sent to an internment camp in Topaz, Utah;

Whereas more than 120,000 Japanese Americans were similarly detained in 10 permanent War Relocation Authority camps located in isolated desert areas of the States of Arizona, Arkansas, California, Colorado, Idaho, Utah, and Wyoming, without any charges brought or due process accorded;

Whereas Fred Korematsu, then 22 years old and working as a shipyard welder in Oakland, California, refused to join his family in reporting to Tanforan, based on his belief that he was a loyal American and not a security threat;

Whereas on May 30, 1942, Fred Korematsu was arrested and jailed for remaining in a military area, tried in

United States district court, found guilty of violating Civilian Exclusion Order Number 34, and sentenced to 5 years of probation;

Whereas Fred Korematsu unsuccessfully challenged that Civilian Exclusion Order as it applied to him, and appealed the decision of the district court to the United States Court of Appeals for the 9th Circuit, where his conviction was sustained;

Whereas Fred Korematsu was subsequently confined with his family in the internment camp in Topaz for 2 years, and during that time, he appealed his conviction to the United States Supreme Court;

Whereas on December 18, 1944, the Supreme Court issued its decision in *Korematsu v. United States*, 323 U.S. 214, which upheld Fred Korematsu's conviction by a vote of 6-to-3, based on the finding of the Supreme Court that Fred Korematsu was not removed from his home "because of hostility to him or his race" but because the United States was at war with Japan and the United States military "feared an invasion of our West Coast";

Whereas Fred Korematsu continued to maintain his innocence for decades following World War II;

Whereas, under section 552 of title 5, United States Code (commonly known as the "Freedom of Information Act"), an historian discovered numerous government documents indicating that, at the time *Korematsu v. United States*, 323 U.S. 214, was decided, the Federal Government suppressed findings that Japanese Americans on the West Coast were not security threats;

Whereas in light of this newly discovered information, Fred Korematsu filed a writ of error coram nobis with the

United States District Court for the Northern District of California;

Whereas on November 10, 1983, United States District Judge Marilyn Hall Patel overturned Fred Korematsu's conviction, concluding that senior government officials knew there was no factual basis for the claim of "military necessity" when they presented their case before the Supreme Court in 1944;

Whereas in that decision, Judge Patel stated that, while *Korematsu v. United States* "remains on the pages of our legal and political history...[as] historical precedent it stands as a constant caution that in times of war or declared military necessity our institutions must be vigilant in protecting constitutional guarantees";

Whereas the Commission on Wartime Relocation and Internment of Civilians, authorized by Congress in 1980 to review the facts and circumstances surrounding the relocation and internment of Japanese Americans under Executive Order Number 9066 (42 Federal Register 1563), concluded that "today the decision in *Korematsu* lies overruled in the court of history";

Whereas the Commission on Wartime Relocation and Internment of Civilians concluded that a "grave personal injustice was done to the American citizens and resident aliens of Japanese ancestry who, without individual review or any probative evidence against them were excluded, removed and detained by the United States during World War II", and that those acts were "motivated largely by racial prejudice, wartime hysteria, and a failure of political leadership";

Whereas the overturning of Fred Korematsu’s conviction and the findings of Commission on Wartime Relocation and Internment of Civilians influenced the decision by Congress to pass the Civil Liberties Act of 1988 (50 U.S.C. App. 1989b et seq.) to request a Presidential apology and symbolic payment of compensation to persons of Japanese ancestry who lost liberty or property because of discriminatory action by the Federal Government;

Whereas on August 10, 1988, President Reagan signed that Act into law, stating, “[H]ere we admit a wrong; here we reaffirm our commitment as a nation to equal justice under the law”;

Whereas on January 15, 1998, President Clinton awarded the Medal of Freedom, the highest civilian award of the United States, to Fred Korematsu, stating, “In the long history of our country’s constant search for justice, some names of ordinary citizens stand for millions of souls: Plessy, Brown, Parks. To that distinguished list, today we add the name of Fred Korematsu.”;

Whereas Fred Korematsu remained a tireless advocate for civil liberties and justice throughout his life, particularly speaking out against racial discrimination and violence targeting Arab, Muslim, South Asian, and Sikh Americans in the wake of the September 11, 2001, tragedy, and cautioning the Federal Government against repeating mistakes of the past by singling out individuals for heightened scrutiny on the basis of race, ethnicity, or religion;

Whereas on March 30, 2005, Fred Korematsu died at the age of 86 in Larkspur, California; and

Whereas Fred Korematsu was a role model for all Americans who love the United States and the promises contained in the Constitution, and his strength and perseverance serve as an inspiration for all people striving for equality and justice: Now, therefore, be it

1 *Resolved*, That the Senate—

2 (1) honors Fred T. Korematsu for his loyalty
3 and patriotism to the United States, his work to ad-
4 vocate for the civil rights and civil liberties of all
5 Americans, and his dedication to justice and equal-
6 ity; and

7 (2) expresses its deepest condolences to his
8 family, friends, and supporters on his death.

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