

New York City Council Committee on Cultural Affairs,
Libraries and International Intergroup Relations
October 25, 2017

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Testimonies of Kaiying Guo, Nada Alnagar, Andy Cai,
Shahana Abdin, Junning Quan, Luyao Ou, Sophia Zheng
Asian American Student Advocacy Project (ASAP) Youth Representatives,
The Coalition for Asian American Children and Families

My name is Mitchel Wu and I am the Director of Programs for the Coalition for Asian American Children and Families (CACF). CACF would first like to thank Committee Chair Van Bramer and the other members of the New York City Council Committee on Cultural Affairs, Libraries and International Relations for holding this important hearing on Resolution 792 that would acknowledge January 30th as Fred T. Korematsu Day in New York City.

CACF is the nation's only pan-Asian children's advocacy organization. Our mission is to improve the health and well-being of Asian Pacific American (APA) children and families. CACF challenges stereotypes of APAs as a "model minority", and advocates on behalf of underserved families in our community, especially those struggling with poverty and limited English skills. CACF promotes better policies, funding, and services for APA children and families.

There is a long history of APAs in this country, with the first documentation of APA's in America as early as the 1570's¹ and settlements as early as the 1760s². In New York City, APAs are by percentage the fastest growing racial community, doubling every decade since 1970 and constituting over 15% of the population, speaking over 40 languages and dialects from approximately 100 different regions of origin. Despite this rapid population growth and diversity, APAs often face invisibility or very little representation in various fields such as media and in history textbooks. Of the over 1 million APAs in New York City, **1 out of 2 APA children are born into poverty, 78% of APAs are foreign-born, and 28% speak little or no English.** These statistics indicate deeper and more complex issues in the community when it comes to barriers to acculturation, community development, and access to resources. By taking a deeper look into our community, one can see that APAs are not a monolithic "model minority" group where the majority have esteemed titles, degrees and high economic standing.

APA youth also face significant barriers in school. According to the New York City Department of Education, **1 in 5 APA high school students do not graduate on time or at all. 50% of APAs in New York state are not considered "college ready" by the time they finish high school and that number is higher in urban concentrations such as New York City.** APA youth face many challenges such as language and culture barriers, having to take on extra responsibilities both financially and domestically for their families; and in schools, they face bullying, micro-aggressions, and a lack of support when it comes to culturally competent services.

¹AMERASIA Journal (UCLA) v.21#3 "Filipinos in Unamuno's California Expedition of 1587", Borah, E.G

²Harper's weekly, March 31, 1883 "Sait Malo, A Lacustrine Village in Louisiana", Hearn, L.



Coalition for Asian American Children + Families

CACF for the past 12 years have organized a city-wide youth leadership group, the Asian American Student Advocacy Project (ASAP). CACF trains APA public high school youth from various backgrounds and neighborhoods in ASAP to address and advocate for the many issues that APA youth face. In this following document, CACF will be providing testimonies from our young people that will share on the importance of why New York City should recognize Fred T. Korematsu, who is an Asian American civil rights leader.

Just to highlight some of his accomplishments, Fred T. Korematsu was an American citizen of Japanese descent who fought against the constitutionality of Executive Order 9066, signed on February 19, 1941 by President Franklin Delano Roosevelt, which forced the mass removal and incarceration of all Japanese on the West coast. He brought his case to the supreme court and although Korematsu lost his landmark case in 1944, he continued to fight for injustices for not only Japanese Americans but all oppressed communities for the remainder of his life. In 1999, Fred T. Korematsu was awarded the Presidential Medal of Freedom by President Bill Clinton. Many states celebrate Fred T. Korematsu day on January 30th, including: California, Hawaii, Virginia, and Florida; Georgia, Michigan, Pennsylvania, and Utah have submitted resolutions honoring the day, and South Carolina has submitted a bill to their legislature.

Thank you again for this opportunity to testify. We look forward to working with members of this committee to vote and pass this resolution promptly, before January 30th so New York City can officially honor Fred T. Korematsu day by the next calendar year.

Testimony of Kaiying Guo, Senior, Laguardia High School of the Arts

Good afternoon. My name is Kaiying Guo. I am a senior at LaGuardia High School of the Arts and I am here as a representative from the Asian American Student Advocacy Project (ASAP). We are a citywide youth leadership program under The Coalition for Asian American Children and Families (CACF) comprised of Asian Pacific American (APA) public high school students from all five boroughs. I would like to thank Committee Chair Van Bramer and members of the Committee of Cultural Affairs for holding this important hearing on resolution 0792 which establishes January 30th as Fred Korematsu Day in New York City annually.

I was born in a small suburban town in Southern China. Shortly after I turned five, my parents and I came to America. I've been here ever since then, this city is my childhood and this country is my home. My high school is often cited to have a great cultural diversity that is reflective of the city's melting-pot nature. APA students make up more than 20% of my student population, but APA history is hardly taught or mentioned. On occasions, when APA history *is* mentioned it is oversimplified or served to students like side-dishes.

In my history class last year, nearly a quarter of my classmates were APA. However, few APA students participated in discussions because of an apparent disconnect. My peers and I felt alienated within our own classroom because we couldn't find a piece of ourselves in what was being taught. In the back of our heads, while we learned about the War of 1812, slavery, and the industrial revolution, we kept thinking, "Well, what were the Asian Americans doing? Where do I have fit in all of this?" I felt like an anomaly because of my ethnic background. As if my education was confirming the stereotype that APA are perpetually "foreigners" and that we've played minimal, if any, part in creating this country.

Coalition for Asian American Children and Families
October 25th, 2017

New York City Council, Committee on Cultural Affairs, Libraries, and International Intergroup Relations
Hearing on Resolution 792



I think establishing Fred Korematsu Day will encourage the much needed conversation in classrooms about Asian Pacific Americans *in* American history. Korematsu's fight against federal discrimination, the Supreme Court's ruling of his case, and his eventual confinement in Japanese concentration camps will bring awareness to unequal treatment and exclusion of Asian Americans in nearly all of American history from policies to all forms of social institutions.

I deeply regret not knowing Fred Korematsu in childhood. His legacy helped connect me to this country in a way that gave me courage to speak today at this hearing. Establishing Fred Korematsu Day will begin the conversation about the history of a community of Americans that have long been excluded. His deeds not only informs us of the struggles and accomplishments of the APA community in this country, but also of what it means to take essential American values and put them into action. Korematsu's valuable experience has something every New Yorker can take away from.

Testimony of Nada Alnagar, Sophomore, Brooklyn Technical High School

My name is Nada Alnagar. I am a member of the Asian American Student Advocacy Project. I would like to thank Chairperson Van Bramer for holding this important hearing on Resolution 0792. As someone who is half Asian-American, I never felt like my Asian identity was an important one because I was in America for the majority of my life. I learned about the expeditions of so many bold explorers, war heroes, and advocates of social change and never an Asian-American one.

Without learning about Asian-American history, I would not feel connected to that part of my identity. I didn't know anything about the history Asian-Americans like me and I never thought to explore it because they were never mentioned in school meaning I was unaware of the significance of Asian-American figures like Fred Korematsu. Similarly, Asian Americans in my high school, who make up 60% of the population, are just as unaware about Asian American history. I am sure many students in the New York City public school system feel the same way.

This is why we need to learn more about the significance of figures like Fred Korematsu. He is a role model of what Asian-Americans truly are in America and what every Asian-American should strive for. He fought against racial profiling and was a civil rights activist his entire life. By incorporating Fred Korematsu in the curriculum, students begin to see how Asian Americans, one of the many marginalized communities, have contributed to this country. Learning about American history through multiple perspectives can help students like me connect with their curriculum and their racial identity.

I wish someone told me that my Asian-American identity was one to be explored and learned to the utmost. I want to learn more about the empowerment and struggles of Asian Pacific Americans in American history so I can engage in my community like Fred Korematsu did and feel more empowered because I can advocate and create positive change too. Thank you for this opportunity to speak and I look forward to having this resolution voted on and passed so we can have Fred Korematsu day in January 2018.

Testimony of Andy Cai, Senior, Stuyvesant High School



Good afternoon. My name is Andy Cai and I am from Brooklyn. I am a senior at Stuyvesant High School. I am here as a student leader from the Asian American Student Advocacy Project (ASAP). We would like to thank Chairperson Van Bramer and the members of Committee on Cultural Affairs, Libraries, and International Intergroup Relations for holding this important hearing on Resolution 0792.

There is a stereotype that all Asian Pacific Americans (APAs) are foreigners. Many people assume we all came from Asia. A common experience many Asian Americans including myself share is someone asking where we are really from. In middle school I remember going to the park to play basketball. After playing for a while, one of the people watching came up to me and said "Hey, you play pretty well for an Asian. Where are you from?" I told him I'm from Bensonhurst. He said "I mean where are you really from?" I didn't understand what he meant. He said "Like are you from Japan, China, Korea?" I responded that I was born in New York and I had never been to Asia before. He looked confused. He had this expectation that I immigrated to the US. People don't think that APAs have been in America for long. They have this misconception that APAs are not truly American but they are just here in America. I had this type of interactions so many times I started to question whether or not I'm actually American. They refused to accept the answer that I'm from Brooklyn, New York. I thought there couldn't be any way that so many people were mistaken. I started to think I was the one who was wrong. However, after I learned about what Fred Korematsu did, it became clear to me that APAs are an important part of America.

Whenever people hear the term Asian American or Japanese American, they tend to focus on the first part, the non-American part. People often forget or ignore that we are also Americans. Fred Korematsu was an APA who definitely acted as an American citizen. He did what I think is the most American thing. When his rights were being violated by the executive order, he stood up against the unjust rules. Japanese Americans were being sent to internment camps without a trial. This violated their Fifth Amendment rights, which states that no person shall be deprived of life, liberty or property without due process of law. Fred Korematsu's story made me realize that APAs are not only Americans but also an important part of America.

I wish I had learned about Korematsu earlier. I didn't learn about Fred Korematsu in school. It wasn't until I joined ASAP that I heard Korematsu's story. When I finally did learn about Korematsu, I was surprised by what APAs have done for this country. I wish Fred Korematsu's story is taught in school so others won't have the same identity crisis I did. Thank you all again for holding this hearing, and we look forward to working with committee members to vote and pass this resolution by the end of this year.

Testimony of Shahana Abdin, Junior, High School for Construction Trades, Engineering, and Architecture

Good Afternoon! My name is Shahana Abdin, and I am a junior at the High School for Construction Trades, Engineering, and Architecture. I am here as a representative from the Asian American Student Advocacy Project (ASAP), which is a citywide program for high school youth leaders, under the Coalition of Asian American Children and Families (CACF). I would like to thank Committee Chair Jimmy Van Bramer and the members of the Committee on Cultural Affairs, Libraries, and International Intergroup Relations for holding this hearing on Resolution 0792, in order to officially establish January 30th as Fred T. Korematsu Day.



I am a Muslim, Bangladeshi-American. I am an American and no matter what others may say or assume, I will always remain an American. Many people are discriminated against due to their beliefs, race, and/or ethnic background. This not only negatively impacts them, but leads them to feel fearful and helpless, as if they are not accepted by their fellow citizens. Knowing you are an American, and still feeling like an outcast in your own country is atrocious. Korematsu, like many minorities, felt a need to fit in, to be perceived as more "American." At one point, in order to fit in, he underwent eye surgery to look less foreign. He also took upon a new identity, by changing his name and pretending to be of another ethnicity. However, Korematsu realized that he was proud of his ethnicity and accepted it with pride. Korematsu sets a great example for others, by showing that one should be proud of who they are, that they should not change themselves in order to fit in or to please others. Only a portion of minorities stand up for their rights because the majority don't feel like they fit in, they don't feel like they have a say in the country, which causes a lack of representation. The few that do take a stance and try to make a difference, are under-represented by the media and the education system.

This past year, there have been many biases towards minorities, especially Muslims, with the creation of the Muslim Ban. Being banned from the country due to beliefs is a clear violation of the Constitution and the foundation of America. It is a difficult time for minorities, they need to be provided with hope. In light of the current environment, people need to be shown that they belong and that they are accepted.

Celebrating and honoring Fred Korematsu would be a great way to provide hope not only to Japanese Americans, but all communities. He is a national civil rights hero, who supported and stood up for Japanese Americans when they were being incarcerated during World War 2. He also stood up for the rights of many others who were not Japanese. After 9/11, many Muslims were being mistreated, he spoke out against this mistreatment. For example, in 2004, a Muslim American was being held in solitary confinement without trial, so Korematsu filed a brief with the Supreme Court.

With everything that is going on today, I feel it is imperative to showcase and celebrate a person who helps, accepts, and advocates for everyone, rather than discriminates against us and sees us as inferior. Fred Korematsu is a great example of a person who stands up for the rights of all Americans. It is crucial, especially during this time with everything that is going on, to have good role models and examples that provide hope for all communities. Thank you again for this opportunity to speak and I encourage the committee to vote and pass this resolution so NYC can declare Fred Korematsu day in 2018.

Testimony of Junning Quan, Senior, The International High School at LaGuardia Community College

Good afternoon. My name is Junning Quan, and I am here as a representative from the Asian American Student Advocacy Project (ASAP). We are a citywide youth leadership program under The Coalition for Asian American Children and Families (CACF). Members in ASAP represent Asian Pacific American (APA) public high school students from all five boroughs. I would like to thank Committee Chair Van Bramer and members of the committee of culture affair for holding this important hearing on Resolution 0792 which is trying to establish January 30th as Fred Korematsu Day in New York City.

I am an English Language Learner (ELL) and a current senior at The International High School at LaGuardia Community College which is in Districts 26 and I am also residence in Flushing, Queens. Having Fred Korematsu day can us help feel the connection to this country, encourage us to learn, to build up self-confidence, and to make us think we are represented, we are one part of this country. Most



of the students in my high school and in my neighborhood are new immigrants who are English Language Learners. We don't speak English very well. We feel that we are not connecting to this country. And many of us afraid speak English in public, we even afraid ordering foods in Mcdonald's. In New York State, the overall high school graduation rate is about 78 percent. But for English Language Learners, it's only 37 percent. When I was studying history in the school, I didn't learn anything about Asian American history. I didn't even know that there is Asian American history. The only time I learned something about Asian American is in my English class. I learned about Japanese American concentration camps. We read two articles and some pictures. We go through these very quickly and without deeper discussion about the issue. But Asian American has deeper roots in this country. Just like Fred Korematsu's story. Before I join ASAP, I didn't know anything about him. Who he is, what he did, and why he is important. But he became my role model. His spirit of not being afraid and the courage to tell something's not right really inspire me. Now I not afraid to speak at public, I feel the connection to this country and I am a part of this country.

Thank you again for holding this important hearing and giving me this opportunity to testify. I encourage the committee to vote to pass this resolution and I look forward to celebrating Fred Korematsu Day on January 30th, 2018.

Testimony of Luyao Ou, Sophomore, High School of Language and Innovation

Hello, everyone! My name is Luyao Ou, I was born in China and I came here 1 year ago. I am a current sophomore in High School of Language and Innovation in the Bronx. I am also a youth leader of Asian American Student Advocacy Project (ASAP). Thank you again Committee Chair Van Bramer and members of committee of culture affair for holding this hearing on Resolution 792 so that I have this opportunity to testify for Fred Korematsu.

My high school is a diverse school for new immigrants. Majority of my school are Latino. In facts, Asian Americans like me are the minority in my school. My classmates think I am so smart and I should know everything. If I am confused about a question, they will be very surprised. Every time when we mention to China or other Eastern Asian countries, my classmates will look at me and they usually say "ching chong" to make fun of me. It makes me so upset and angry. I try to ignore them but I still can hear them.

Even when I'm not in the school, I still experience things that make me very uncomfortable. In the subway, a group of children talked about where I am from in front of me loudly. They said something rude about my community to their friends, and I heard those. I want to get rid of this stereotype and I want to say "I'm not your Model Minority"! I think this situation happened in many Asian Americans' life, because people don't know enough about our community.

Having Fred Korematsu Day on January 30th will make more and more students, children and adults be knowledgeable about the diverse cultures in America. In addition, studying Asian American history helps people better understand and respect each other's community. Learning about the history of Fred Korematsu informs people that we are also part of America. Also, there will be less bullying and racism. Thank you again for holding this hearing! I would like to encourage the committee to hold a vote and pass this resolution so we can have Fred Korematsu day by next year.



Testimony of Sophia Zheng, Junior, Manhattan Hunter Science High School

Good afternoon everyone, my name is Si Hui Zheng, you can call me Sophia. I am a member of Asian American Student Advocacy Project and a junior at Manhattan Hunter Science High School which is represented by council member Helen Rosenthal. I would like to thank Committee Chair Van Bramer and members of the committee of culture affair for holding this important hearing on Resolution 792.

I immigrated here one and a half year ago. At first, I didn't consider myself as part of America, especially when most immigrants around me also see ourselves as foreigners. But when I saw many Asian Pacific American (APA) adults were indifferent about most social issues, this strongly conflicted with my strong sense of social responsibility that teenagers should have. I realize why there is low participation of APA in politics in America even though APA have long-term roots here-- we should have a role model to look up to. After learning about FK's inspiring experience of fighting for civil rights in a hard condition, I became firmly believe that I am a part of America. I became more aware of that I have civil rights like others in the country and I should always speak out for any unfairness instead of being silent.

Additionally, in all of my time in high school, which is very diverse, I noticed that my teachers never talked about APA history and there were no materials distributed on. Sometimes I feel more left out and I know that there are so many APA students feeling the same way. I truly believe that we cannot fully understand American history without learning APA history because it is vital since we were rooted here for hundreds of years and took part in constructing the country. Establishing FK Day is the bridge between APA communities and other ethnic groups because knowing the day would make people to talk and learn more about APA culture. As we want students who are the future to be more cosmopolitan, it is critical to inform them all aspects of different cultures.

APA community is diverse, some have been here for centuries and others just immigrated here recently, some are Koreans and some are Indians, but FK is someone who can tie us together and teach us that we are Americans. Establishing FK Day helps not just the APA community, but all New Yorkers can learn from him about the courage and the civil rights we should have in order to avoid the repetition of history. Thank you all again for having the hearing and giving me the opportunity to speak and I humbly encourage the committee to vote and pass this resolution and to keep in mind the timeliness of it as Fred Korematsu day is January 30th.



Council on American-Islamic Relations

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**STATEMENT OF
ALBERT FOX CAHN, ESQ.
LEGAL DIRECTOR
COUNCIL ON AMERICAN-ISLAMIC RELATIONS, NEW YORK, INC.**

**BEFORE THE
COMMITTEE ON COMMITTEE ON CULTURAL AFFAIRS, LIBRARIES, AND
INTERNATIONAL INTERGROUP RELATIONS
NEW YORK CITY COUNCIL**

**FOR A HEARING CONCERNING,
RESOLUTION 0792-2015 - ESTABLISHING JANUARY 30 ANNUALLY AS FRED T.
KOREMATSU DAY.**

**PRESENTED
October 25, 2017***

* My sincerest thanks to Isabel G Cifarelli (CAIR-NY legal services intern), for her invaluable assistance in preparing these remarks.

Good morning, my name is Albert Fox Cahn, and I serve as the Legal Director for the New York Chapter of the Council on American-Islamic Relations (“CAIR-NY”). CAIR-NY is a leading civil rights advocacy organization for the Muslim community here in New York City and across New York State. I am proud to testify today in support of the resolution honoring Fred Korematsu, and I applaud Council Member Dromm and Chair Bramer for calling today’s hearing.

At one of our country’s darkest moments, as the passions of war gave renewed power to long-held bigotry, Fred Korematsu was brave enough to step forward and oppose a president’s unlawful order and fight for the best version of American Democracy. At a time when dissent is commonplace, I don’t think any of us can fully understand how extraordinary an act this was, civil disobedience committed decades before that phrase would become familiar.

Korematsu’s refusal led to a constitutional challenge that to this day stands as one of the most important tests of presidential powers and the rights of Americans in times of war. In one of its most-reviled decisions of all time, the Supreme Court upheld his conviction,¹ but that was far from the end of the story. Forty years later, in an extraordinary reversal, a district court threw out Korematsu’s conviction, finding that the government had lied about the war-time threat posed by Americans of Japanese descent, and noting that the Supreme Court’s decision shows that our courts “must be prepared to exercise their authority to protect all citizens from the petty fears and prejudices that are so easily aroused.”²

Korematsu Day would stand as an enduring reminder to all New Yorkers of how easily fear and hate can turn into injustice. It will make sure that we never forget the horrific fact that our country imprisoned 120,000 Americans of Japanese descent³--most of whom were citizens.⁴ It was an act cloaked in national security and wartime necessity,⁵ but today we know it was driven by one thing: hate.

Although most Americans of Japanese descent resided in the western U.S., New York was actively complicit in the internment. Immediately following the Pearl Harbor attacks, New York City mayor Fiorello LaGuardia placed all New Yorkers of Japanese Descent under house arrest.⁶ Within hours, hundreds had been detained at Ellis Island.⁷

¹ *Korematsu v. United States* 323 U.S. 214 (1944).

² *Korematsu v. United States*, 584 F. Supp. 1406, 1420 (N.D. Cal. 1984)

³ Avi Selk, *FDR Issued an Executive Order Sending Japanese Americans to Internment Camps—75 Years Ago*, *Washington Post*, Feb. 17, 2017, <https://www.washingtonpost.com/news/post-nation/wp/2017/02/12/the-supreme-court-reviewed-an-executive-order-result-one-of-the-worst-decisions-in-history/>.

⁴ Richard Wolf, *Children of Japanese American Legal Pioneers from World War II Fight Travel Ban*, Oct. 10, 2017, <https://www.usatoday.com/story/news/politics/2017/10/10/children-japanese-american-legal-pioneers-world-war-ii-fight-travel-ban/740910001/>.

⁵ See Noah Feldman, *Why Korematsu Is Not Precedent*, *N.Y. Times*, Nov. 18, 2016, <https://www.nytimes.com/2016/11/21/opinion/why-korematsu-is-not-a-precedent.html?mcubz=1>.

⁶ *Remembering Pearl Harbor: Mayor Fiorello La Guardia Orders Confinement Of NYC’s Japanese*, CBS N.Y. (December 7, 2014 2:02 PM), <http://newyork.cbslocal.com/2014/12/07/remembering-pearl-harbor-mayor-fiorello-la-guardia-orders-internment-of-nycs-japanese/>.

⁷ *Encyclopedia of Japanese American Internment* 229 (Gary Y. Okihiro ed., 2013) (As of December 1941, 279 Japanese Americans had been detained at Ellis Island).

Moreover, during the court of World War II, 59 Americans were excluded from the Eastern Defense Command (“EDC”), which encompasses the entire Atlantic Coast.⁸ Notably, this included Naoye Suzuki, a New Yorker of Japanese descent and a United States citizen. After first being detained at Ellis Island, Suzuki was tried before a military hearing and exiled from the EDC to Chicago.⁹ Those New Yorkers of Japanese Descent who were lucky enough to stay in the city had to endure years of house arrest, notifying the FBI if they simply wished to leave their apartment.¹⁰

Anti-Japanese discrimination lasted throughout the war and beyond. In 1944, when the Federal government sought to relocate internees to New York City, then Mayor LaGuardia denounced the proposal, with words that sound all too familiar under our current presidential administration:

“Is there one single solitary United States official who will vouch for each and everyone [sic] of them . . . Yet they are being dumped here. Nobody knows them. No one can vouch for each of them. If it was necessary to evacuate them from their homes originally and put them in a concentration camp, what justification is there for turning them loose in Eastern cities at this time”¹¹

We can never fully atone for our city’s actions against Americans of Japanese descent, but by enacting Korematsu day, we can remind New Yorkers of the scope of this historical injustice, erecting it as a bulwark against anyone who might once again try to turn hatred and fear into unjust law. Since President Trump’s election, the task has never been more urgent.

Although widely renounced, the Supreme Court’s decision in *Korematsu v. U.S.* has never been formally overturned. As Justice Jackson put it, the decision “lies about like a loaded weapon, ready for the hand of any authority that can bring forward a plausible claim of an urgent need.”¹² We have already seen President Trump’s supporters cite *Korematsu v. U.S.* and the internment as legal precedent for programs targeting Muslim Americans.

These chilling incidents include when Roanoke, VA mayor David Bowers, called on local agencies to suspend assistance for Syrian refugees, saying “I’m reminded, [...] that President Franklin D. Roosevelt felt compelled to sequester Japanese foreign nationals after the bombing of Pearl Harbor, and it appears that the threat of harm to America from ISIS now is just as real and serious as that

⁸ Tetsuden Kashima, Judgment Without Trial: Japanese American Imprisonment During World War II 137 (2003).

⁹ Special Report on Exclusion from the Eastern Defense Command Area from Togo Tanaka to Morton Grodzins, Research Assistant at the University of California (Apr. 8, 1943), http://digitalassets.lib.berkeley.edu/jarda/ucb/text/cubanc6714_b284t01_9945.pdf.

¹⁰ See Jessica Prois and Kimberly Yam, *Japanese-Americans Imprisoned for Ethnicity Speak out in Defense of Muslims* (Mar. 22, 2017), http://www.huffingtonpost.com/entry/japanese-internment-survivors-muslims_us_584811b7e4b0b9feb0da5492.

¹¹ Letter from Mayor Fiorello H. LaGuardia to Secretary of the Interior Harold L. Ickes (Apr. 21, 1944), http://www.laguardiawagnerarchive.lagcc.cuny.edu/FileBrowser.aspx?LinkToFile=FILES_DOC/LAGUARDIA_FILE_S/HIGHLIGHTS/Japanese_Relocation.pdf.

¹² See *Korematsu*, 323 U.S. at 246 (J. Jackson, dissenting).

from our enemies then.”¹³ Carl Higbie, a former Navy SEAL and Trump supporter, cited internment and *Korematsu* as justification for the constitutionality of Kansas Secretary of State Kris Kobach’s plan for the creation of a registry for immigrants from predominantly Muslim countries.¹⁴ Glen Casada, head of Tennessee’s House Republican Caucus, advocated that the US round up all Syrian refugees for further review in ICE facilities.¹⁵ In 2015, then-candidate Trump said he “would certainly implement” a database that tracks Muslims living in the United States, noting that Muslims would be legally obligated to self-report.¹⁶

Fred Korematsu’s fight did not end in 1944; he spent much of his life fighting for civil rights, including his denunciation of anti-Muslim profiling in the wake of September 11th. In 2004, Mr. Korematsu said “I know what it is like to be at the other end of such scapegoating and how difficult it is to clear one’s name after unjustified suspicions are endorsed as fact by the government . . . [n]o one should ever be locked away simply because they share the same race, ethnicity, or religion as a spy or terrorist.”¹⁷ Mr. Korematsu went on to file an *amicus* brief with the Supreme Court, opposing the denial of due process for detainees at Guantanamo Bay, comparing the practice to internment: (“The extreme nature of the Government’s position here is all too familiar”).¹⁸ Recently, Fred Korematsu’s daughter Karen, along with the Korematsu Center for Law and Equality, filed an *amicus* brief opposing the Muslim ban, seeking to “remind . . . the courts of the harm wrought by governmental actions, carried out in the name of national security, that impact men, women, and children belonging to disfavored minority groups—both the human toll and the danger of sacrificing our country’s fundamental values.”¹⁹

Our federal government has consistently capitalized on fear caused by global conflict to discriminate against “disfavored” groups under the guise of “national security.” The language used by FDR and LaGuardia is eerily similar to that of President Trump and his supporters. Fred Korematsu’s legacy stands as a reminder that scapegoating and racism can too easily be given force of law. Today, many Muslim New Yorkers fear that history will repeat itself.

¹³ Daniel Victor, *Roanoke Mayor Apologizes for Japanese Internment Remarks*, Nov. 20, 2015,

<https://www.nytimes.com/2015/11/21/us/roanoke-mayor-apologizes-for-japanese-internment-remarks.html?mcubz=1>.

¹⁴ See Tal Kopan and Jason Kurtz, *Trump Backer Further Explains Internment Comments*, Nov. 17, 2016,

<http://edition.cnn.com/2016/11/17/politics/trump-supporter-internment-muslim-registry/index.html>.

¹⁵ Theodore Schleifer, *Tennessee Pol: Round up Syrian Refugees for Review*, Nov. 18, 2015,

<http://www.cnn.com/2015/11/18/politics/tennessee-casada-syrian-refugees/index.html>.

¹⁶ *Donald Trump Says He Would Certainly Implement Muslim Database*, NBC N.Y. (Nov. 19, 2015, 10:26 PM),

<http://www.nbcnewyork.com/news/national-international/Donald-Trump-Says-He-Would-Certainly-Implement-Muslim-Database-351996151.html>.

¹⁷ Fred Korematsu, *Do We Really Need to Relearn the Lessons of Japanese American Internment?*, SFGate (Sep. 16, 2004, 4:00 AM), <http://www.sfgate.com/opinion/openforum/article/Do-we-really-need-to-relearn-the-lessons-of-2724896.php>.

¹⁸ See *Amicus Curiae* Brief of Fred Korematsu in Support of Petitioners at 2, *Rasul v. Bush*, 542 U.S. 466 (2004) (No. 03—334 and 03—343),

<https://www.law.northwestern.edu/legalclinic/macarthur/projects/guantanamo/documents/RasulAmicusBrief.pdf>

¹⁹ See Brief of Karen Korematsu, Jay Hirabayashi, Holly Yasui, The Fred T. Korematsu Center for Law and Equality, Civil Rights Organizations, and National Bar Associations of Color as Amici Curiae In Support of Defendants at 3, *Donald J. Trump v. International Refugee Assistance Project*. U.S. Supreme Court (2017) (Nos. 16-1436 and 16-1540), http://www.scotusblog.com/wp-content/uploads/2017/09/16_1436_16_1540_bsac_Karen_Korematsu.pdf.

Korematsu day is not only important to Japanese New Yorkers, but to New Yorkers of every race and ethnicity. Fred Korematsu's legacy has taken on particular importance to Muslim New Yorkers over the course of the past year. Last November, I gave a training at NYU, speaking to a room of Muslim students still in shock from the election. One student told me that she spoke to Representative Mike Honda, who was interned as a child. She asked Representative Honda if a Muslim internment was possible, and he said "yes." Tears in her eyes, she asked me the same question. I said no, not because of our laws or constitution, but because Americans would never again stand by when our neighbors were targeted. By remembering Fred Korematsu, we help fulfill that promise, showing Muslim New Yorkers that this city will never again be complicit in interning its own.

By remembering Fred Korematsu, we also pass on his lesson to the future generations of New Yorkers, inoculating ourselves against those who might seek to exploit fear or tragedy for their own perverse ends. In the words of the Federal court that reversed Fred Korematsu's conviction, his case stands as a constant caution that "our institutions must be vigilant in protecting constitutional guarantees" and that "the shield of military necessity and national security must not be used to protect governmental actions from close scrutiny and accountability."²⁰

Today, we are recommitting ourselves to the protection of those ideals that Fred Korematsu fought for, helping to pass on to our children the best vision of our constitution. With passage of this resolution, this Council will transform January 30th into an enduring reminder of this city's commitment to civil rights, and a caution against those who try to exploit moments of danger and grief into calls for discrimination. I thank the council for its support and for helping to defend any New Yorkers who face discrimination.

²⁰ *Korematsu v. United States*, 584 F. Supp. 1406, 1420 (N.D. Cal. 1984)

10/25 Fred T. Korematsu Day Hearing
Testimony, Res. 792
Jennifer Hayashida

Thank you, members of the City Council, and especially Council Member James Van Bramer, for scheduling this important hearing.

My name is Jennifer Hayashida. I am a former faculty member at Hunter College, The City University of New York, where I taught for eleven years and ran their Asian American Studies Program from 2008-2017.

The Asian American Studies Program at Hunter offers a curriculum centered around the history and contemporary experiences of Asians in the U.S., ranging from the mid-1800s to the present, and spanning all Asian groups, including East, West, South, and Southeast Asian Americans.

Nearly 90% of the students I worked with at Hunter were graduates of New York City high schools. Very few of the young people I taught had any knowledge at all of Asian American history. Histories of Asian migration, settlement in, and contributions to the U.S. are not heavily featured in the DOE curriculum. Inevitably, our instructors spent the first weeks of classes trying to assess what students knew, and why. Were they familiar with the 1882 Chinese Exclusion Act? The 1965 Immigration and Nationality Act, in many cases the very legal reform which allowed their parents, aunts, or uncles entry to this country?

My estimate is that, in a class of 30 students, 5 to 10 of them would know that the WWII mass incarceration of Japanese Americans even happened. Fewer, though, knew that 2/3 of those “Japanese people” who had been locked up without due process were U.S. citizens. Or, that they were not, in fact, free to leave camp if they wished. Or, that the “internment” hadn’t been a way for the government to protect Japanese Americans. Or, that they were overseen by armed guards with orders to shoot. Most importantly, I never had a student who came into my class knowing that there were Japanese Americans who resisted the incarceration, and stood up for justice as Fred Korematsu did.

Prompted by seeing what my students did **not** know - and tired of hearing that the “internment” was not relevant to other communities of color - I organized a one-day conference at Hunter on the continued legal significance of the WWII mass incarceration of Japanese Americans. The conference, held in 2014, was titled “The Color of Citizenship.” Scholars and legal advocates from across the country focused on how the WWII incarceration remains relevant to contemporary policies affecting Muslim Americans after 9/11 and the persistent surveillance and policing of African American and Latinx communities. That same semester, I developed and taught Hunter’s first course focused exclusively on what most people refer to as “Japanese Internment.”

The emphasis in both the conference and the class was on the importance of this event *across time and for all communities of color, not only Japanese Americans*. Asian American history is a history of political struggle, and we must honor that history since political struggle is an important part of what makes all of us American.

This history of the incarceration - and especially of Japanese American resistance - remains on the margins of textbooks, yet it serves as a clarion call for so many students who learn about it. Coincidentally, in the weeks following the most recent presidential election, students in my class on Asian American literature were reading *Citizen 13660*, Japanese American author and illustrator Miné Okubo's graphic novel that chronicles her experience at the Topaz "war relocation center" in Utah. This is the same camp where my uncle Allen spent the first three years of his life **and** where Fred Korematsu was eventually incarcerated. Okubo's book presents a relatively uncritical assessment of years in camp - it was popular even with government officials responsible for the so-called "relocation" of Japanese Americans - but it is also unsparing in its depiction of the everyday ways Japanese Americans were dehumanized.

As the pitch of Islamophobia steadily increased last fall and winter, my students wanted to bring *Citizen 13660* to the streets of our city. Like all college students, they were suddenly experts on a topic at family dinners, and they were stunned to realize that few people around them knew anything about the camps or the people forced to live in them. Self-organized groups of students read passages from Okubo's book, in unison, in public spaces at Hunter College, on Fifth Avenue, and in the Trump Tower lobby - technically, if not spiritually, a public space. They engaged in respectful conversations with curious passers-by, some even going so far as to give away their copies of the book in an effort to educate the public. They organized an Open Mic for young people in the city who wanted to learn about Okubo's book and read their own political poetry in response to our times.

This resolution to establish January 30 as Fred Korematsu Day in New York City is not simply a symbolic nod to a civil rights hero who received the Presidential Medal of Freedom. It is a crucial reminder to all of us that history is not what we imagine or wish it had been, but that it lives with us always and requires continuous vigilance. January 30 will be a day for all of us - of all racial backgrounds - to unite, in large and small ways, and reflect upon the continued legacy of a man who insisted that civil rights be granted to all of us, regardless of skin color. I think all of us in this room know how relevant this struggle remains today. For me as an educator, it is critical that the young people of New York City in particular be aware of this history, especially as many of them face uncertain futures where they feel disempowered and overlooked. This resolution does not simply honor the past, but gives energy and hope to those who continue to work towards justice today. Thank you.



Japanese American Citizens League
New York Chapter

Dear Hon. James Van Bramer and the Committee on Cultural Affairs,

I am testifying on behalf of the Japanese American Citizens League NY Chapter in order to ask you for your support for the passage of Res. 792. in recognition of Fred Korematsu Day on January 30th. This resolution is important not only to the New York City Asian community but to communities of all colors. Res. 792 represents the essential values of the great majority of New Yorkers, that we will never accept discrimination based on race, religious orientation, or any other marginalized identity.

Seventy-five years ago, the passage of Executive Order 9066 led to one of the most tragic episodes in US history, resulting in the imprisonment of over 110,000 Japanese Americans during WW2 without due process. They had done nothing wrong: in the hysteria of wartime xenophobia, people were imprisoned because they looked like “the enemy.” Needless to say, thousands of innocent civilians’ lives were destroyed: families were shattered; the damage was immeasurable.

Here in NYC, during WWII, many innocent people in our community were targeted and imprisoned on Ellis Island, or were under house arrest without due process of law. To make things worse, when those who were incarcerated in US Government Concentration Camps tried to come to NYC, Mayor Fiorello La Guardia publicly stated the he “did not want any Japs coming to New York”

Though only a college student at the time Fred Korematsu refused to accept this gross breach of justice, challenging the legality of Executive Order 9066 at the Supreme Court in *Korematsu v. United States*, 1944. In doing so Korematsu acted like a true American in standing up for his rights as a citizen. After the war, Korematsu became an important role model as he continued to fight for Japanese American Redress and Reparations, resulting in the passage of the Civil Liberties Act of 1988. This law was a formal apology and acknowledgement of the fundamental injustice of the “evacuation, re-location, and internment” of US Citizens and permanent resident aliens of Japanese ancestry during WW2. In addition to redress for survivors, the Civil Liberties Act also discouraged “the occurrence of similar injustices and violations of civil liberties in the future”.

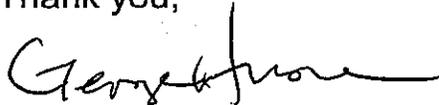
Fred Korematsu was awarded the Presidential Medal of Freedom by President Bill Clinton in 1988 and was an ardent civil rights activist until the end of his life in 2006. He was an outspoken proponent for the fair, just and equal treatment for all people regardless of race, gender, or religion. The establishment of this day is not just about the accomplishments or actions of one man, but is a highly symbolic acknowledgement of how racially motivated policies and the infringement of our basic civil rights are morally wrong. This resolution is clearly not just about one community, but extends to all marginalized communities who are easily targeted when the political tide turns against them.

Japanese Americans are the only group that has been that has been mass-incarcerated by the U.S. Government. The Japanese American community in NYC is painfully aware and very concerned that the same type of racist and unjust executive orders that incarcerated Japanese Americans 75 years ago, are being repeated today with our Muslim and immigrant communities. Our hope is that the recognition of Fred Korematsu Day will help bring awareness to New York City's general population and establish a solid foundation for educational outreach throughout the NYC school system. We feel that it is important to teach children and young adults not only about the Japanese American Incarceration, but also about the dangers of intolerance and the effect it has on innocent lives.

Now is the time to make a strong statement that racial profiling and persecution is not acceptable. Unless we acknowledge the mistakes of the past we cannot move forward as a society!

Lastly, I would like to thank the Hon. James Van Bramer for scheduling this hearing and I would also urge the Committee on Cultural Affairs to proceed with a speedy vote so that NYC can join the states of California, Virginia, Florida, and Hawaii in celebrating an official Fred T. Korematsu Day on January 30th.

Thank you,



George Hirose, 10/25/2017

JACL NY (Japanese American Citizens League NY Chapter), Co-President
JAA (Japanese American Association) Board of Directors



<http://www.nyuapalsa.org/>

October 25, 2017: “Establishing January 30 annually as Fred T. Korematsu Day”

New York City Council
Committee on Cultural Affairs, Libraries and International Intergroup Relations
City Hall Park
New York City, NY 10007
October 25, 2017

Members of the New York City Council,

My name is Andy Kim, and I am a second-year J.D. Candidate at New York University School of Law and Korematsu Chair of our Asian-Pacific American Law Students Association. I am honored to testify today in support of the establishment of Fred T. Korematsu Day in our City.

My role with the APA Law Students Association is to organize NYU’s annual Korematsu Lecture. The lecture series was established in 2000 in honor of Fred Korematsu. It provides a forum to address Asian American perspectives on the law and to honor those who have substantially contributed to the legal profession while challenging status quo racism and injustice. We have hosted many distinguished jurists, including Professors Harold Koh and Kenji Yoshino, Judge Pamela Chen of the Eastern District of New York, and most recently, Judge Jacqueline Nguyen of the Ninth Circuit. We are happy to welcome Justice Goodwin Liu of the California Supreme Court in February.

During much of Fred Korematsu’s life, it would have been hard to imagine such talented and accomplished Asian Americans in the law. It is a terrible burden to be the first in anything, but as law students, we have the incredible blessing to stand on treaded ground—albeit, lightly. The lecture series serves as a reminder of the progress we have made—not just as Asian Americans, but as a civil society. But Korematsu’s name also reminds us that Civil Liberties are not to be taken for granted. They must be fought for. That was the case in 1942; it was the case in 2001; and unfortunately, it remains the case in 2017.

The 1944 Supreme Court decision that bears Korematsu’s name has never been overturned. While it is widely discredited, it is a reminder to remain ever-vigilant. Fred Korematsu fought for his constitutional rights for 40 years—long after he had served out his sentence. He had nothing material to gain, and acted simply on the principle of justice. He (and Gordon Hirabayashi, and Minoru Yasui) just knew that what had happened to them and their loved ones was unconstitutional and even un-American.

I hope that New York City will join us in remembering Fred Korematsu, but more importantly, what he stands for in Civil Liberties and our Constitution. In establishing Fred T. Korematsu Day, I look forward to us joining the growing number of cities and states that celebrate January 30th accordingly. Thank you for your consideration.

Sincerely,

A handwritten signature in black ink, appearing to read 'Andy Kim', with a stylized, cursive script.

Andy Kim

Korematsu Chair of the New York University Asian-Pacific American Law Students Association

THE CONSTITUTION IN A TIME OF WAR: THE TRIAL OF MINORU YASUI

ROLES (IN ORDER OF APPEARANCE)

NARRATORS 1 AND 2

JUDGE FEE	<i>Federal district judge, District of Oregon, who presided over the one-day bench trial of Yasui</i>
EARL BERNARD	<i>Defense attorney representing Yasui</i>
CARL DONAUGH	<i>Government attorney prosecuting Yasui</i>
WILLIAM MAAS	<i>Government witness; Portland police sergeant who arrested Yasui</i>
VINCENT QUINN	<i>Government witness; FBI special agent who interviewed Yasui both before and after the declaration of war against Japan</i>
RAY MIZE	<i>Government witness; FBI agent who interviewed Yasui after his arrest</i>
ALAN DAVIS	<i>Government witness; FBI agent present when Mize interviewed Yasui</i>
LESLIE SCOTT	<i>Government witness; state treasurer and member of the Alien Enemy Hearing Board for Oregon</i>
MINORU YASUI	<i>Defendant; charged with violating curfew order</i>
CHARLES BURDELL	<i>Special Assistant to the D.C. Attorney General; accompanied Donough</i>
CHIEF JUSTICE STONE	<i>Chief Justice of the Supreme Court</i>
JUSTICE BLACK	<i>Justice of the Supreme Court</i>
JUSTICE MURPHY	<i>Justice of the Supreme Court</i>
JUSTICE JACKSON	<i>Justice of the Supreme Court</i>

TIMELINE OF EVENTS

Dec. 7, 1941	Japan attacks Pearl Harbor.
Feb. 19, 1942	President Roosevelt signs Executive Order 9066, authorizing the designation of military zones from which "any and all persons" could be excluded.
Early Mar. 1942	General John L. DeWitt issues Public Proclamations No. 1 and 2 designating military areas along the West Coast and warning of future evacuation.
Mar. 21, 1942	Congress passes Public Law 503 criminalizing disobedience of any such military proclamation.
Mar. 24, 1942	General DeWitt issues Public Proclamation No. 3, which established a nighttime curfew and five-mile travel restriction to take effect on March 28, 1942, imposed on all persons of Japanese ancestry.

Mar. 28, 1942	Within hours of the curfew taking effect, a Japanese-American lawyer, Minoru Yasui, deliberately violates curfew in Portland.
Jun. 12, 1942	One-day bench trial of Yasui takes place before Judge Fee.
Nov. 16, 1942	Judge Fee finds the curfew order unconstitutional as applied to U.S. citizens, but constitutional as applied to Yasui on the ground that Yasui is an alien.
Nov. 18, 1942	Yasui is sentenced.
Jun. 21, 1943	Yasui's conviction is upheld by the U.S. Supreme Court on the ground that the curfew was constitutional as applied to American citizens. The opinion in <i>Hirabayashi</i> is released on the same day.
Dec. 18, 1944	Decisions in Ex parte <i>Endo</i> and <i>Korematsu</i> are handed down by the Supreme Court.
Feb. 19, 1976	President Ford formally rescinds Executive Order 9066.
Nov. 10, 1983	Federal district judge Marilyn Patel of the Northern District of California grants <i>Korematsu's</i> writ of error <i>coram nobis</i> , overturning his 1944 conviction.
1984	The district court in Oregon vacates Yasui's conviction, but denies the declaratory relief that he sought. Yasui appeals to the Ninth Circuit.
Nov. 12, 1986	Yasui dies before his appeal could be heard.

[PLAY DAY OF INFAMY CLIP] ¹

NARRATOR 1:² On February 19, 1942, seventy-four days after the bombing of Pearl Harbor, President Roosevelt signed Executive Order 9066,³ authorizing the Secretary of War to designate military zones from which “any and all persons” could be excluded.⁴ Eventually, some 120,000 persons of Japanese ancestry -- two-thirds of them U.S. citizens -- were removed from their

¹ Audio clip President Franklin Delano Roosevelt Pearl Harbor Address delivered on December 8, 1941 at <https://www.youtube.com/watch?v=3VqQAf74fsE> (last visited on Sept 5, 2012).

² In addition to the actual transcripts from the court proceedings and court opinions, the basic background information in this reenactment script is largely derived from JOHN TATEISHI, AND JUSTICE FOR ALL: AN ORAL HISTORY OF THE JAPANESE AMERICAN DETENTION CAMPS 62-93 (1984) (containing the personal account of Minoru Yasui as transcribed by the author), PETER IRONS, JUSTICE AT WAR (1983), UNFINISHED BUSINESS: THE JAPANESE-AMERICAN INTERNMENT CASES (Mouchette Films 1984) [hereinafter UNFINISHED BUSINESS], and Jerry Kang, *Denying Prejudice: Internment, Redress, and Denial*, 51 UCLA L. REV. 933 (2004).

³ Exec. Order No. 9066, 3 C.F.R. 1092-1093 (1938-1943). Although the evacuations would be racially targeted, the Executive Order did not specifically mention the Japanese. Executive Order 9066 was formally rescinded by Gerald Ford on February 19, 1976. Proclamation 4417, An American Promise, 41 Fed. Reg. 7741 (Feb. 19, 1976).

⁴ Shortly following the issuance of Executive Order 9066, General John L. DeWitt, the head of the Western Defense Command (and whose push for the mass evacuation of Japanese Americans from the West Coast led to the issuance of the Order in the first place), issued Public Proclamations No. 1 and 2 designating military zones along the West Coast and warning of future evacuation. On March 21, 1942, Congress passed Public Law 503 criminalizing disobedience of any such military proclamation; this was the federal law under which *Hirabayashi*, *Yasui*, and *Korematsu* would later be convicted. See Kang, *supra* note 2, at 938-39.

homes on the West Coast, without any due process or individualized consideration, and placed in internment camps.

The relocation process began with orders imposing a nighttime curfew on “all persons of Japanese ancestry.”⁵

On March 28, 1942, within hours after the curfew took effect, a young, Japanese-American lawyer -- Minoru Yasui [**stands**] -- began walking the streets of Portland, Oregon. Intent on challenging the legality of the military orders, he walked for three hours, trying to get arrested. He even asked his secretary to call the police to say that “there’s a Japanese walking up and down the street -- go arrest him.”⁶ Police officers, however, told him to “run along home.”⁷ Undeterred, he finally went to a police station, where he demanded to be -- and was -- arrested.

Yasui was the first person to challenge the military orders. He was indicted for violating the curfew and was prosecuted in federal court.⁸

Two other Japanese-American citizens were prosecuted for violating military orders: Fred Korematsu⁹ and Gordon Hirabayashi.¹⁰ A Japanese-American woman, Mitsuye Endo, filed a petition for a writ of habeas corpus to challenge her internment. All four cases reached the United States Supreme Court.¹¹

NARRATOR 2: Yasui waived his right to a jury, and the case was tried to the Honorable James Alger Fee [**stands**] on June 12, 1942. Judge Fee asked eight of Portland’s leading attorneys to attend the trial as “friends of the Court,” to provide advice on the constitutional issues.¹² Nine witnesses, including Yasui, testified.

⁵ On March 24, 1942, General DeWitt issued Public Proclamation No. 3, which established a nighttime curfew and five-mile travel restriction to take effect on March 28, 1942, imposed on all alien enemies and all persons of Japanese ancestry—alien and citizen alike. Public Proclamation No. 3, 7 Fed. Reg. 2543 (Apr. 2, 1942); *see also* TATEISHI, *supra* note 2, at xviii (describing Proclamation No. 3).

⁶ *See* TATEISHI, *supra* note 2, at 71.

⁷ TATEISHI, *supra* note 2, at 71.

⁸ *United States v. Yasui*, 48 F. Supp. 40, 44 (D. Or. 1942).

⁹ Korematsu had gone into hiding in the Oakland area after refusing to comply with a May 3, 1942 evacuation order. He was arrested on May 30, 1942, trying to pass as a Spanish-Hawaiian under the alias “Clyde Sarah.”

¹⁰ Like Yasui, Hirabayashi was a conscientious objector who refused to comply with curfew and evacuation orders in order to create a test case. Hirabayashi turned himself in to the FBI on May 16, 1942. For a portrait of Hirabayashi, *see* IRONS, *supra* note 2, at 89-92.

¹¹ *See Yasui v. United States*, 320 U.S. 115 (1943); *Hirabayashi v. United States*, 320 U.S. 81 (1943) (handed down the same day as *Yasui*); *Korematsu v. United States*, 323 U.S. 214 (1944); *Ex parte Endo*, 323 U.S. 283 (1944) (handed down the same day as *Korematsu*). *See also* Kang, *supra* note 2, at 943 (noting that internment was not challenged much in court because “the first-generation Japanese American leadership . . . [had been] arrested immediately after Pearl Harbor,” and “the second-generation Japanese American Citizens League (JACL), the most influential community organization, [had] strongly urged cooperation as evidence of loyalty.”); Aya Gruber, *Raising the Red Flag: The Continued Relevance of the Japanese Internment in the Post-Hamdi World*, 54 U. KAN. L. REV. 307, 308-09 (2006) (“At the time of the internment there was little resistance or outcry, even from the Japanese community. Many Japanese were loath to make a fuss and prided themselves on being cooperative.”).

¹² IRONS, *supra* note 2, at 141.

The Government was represented by Carl Donaugh **[stands]**, the United States Attorney for the District of Oregon. He was accompanied by Charles Burdell **[stands]**, a Special Assistant to the Attorney General from Washington, D.C.

Yasui was represented by Earl Bernard **[stands]**, a distinguished Portland lawyer. Bernard was not known for taking on liberal causes, but he was an acquaintance of Yasui and took an interest in the case. He would represent Yasui all the way to the Supreme Court.

This morning we will re-enact portions of the Yasui trial for you. Other than some editing for length and the addition of some commentary, the words you will hear are the actual words spoken at the trial, more than sixty-five years ago.

Ladies and gentlemen, the Trial of Minoru Yasui.

[JUDGE FEE bangs gavel]¹³

JUDGE FEE: United States of America versus Minoru Yasui, defendant.

BERNARD: The defendant is ready for trial, your Honor.

DONAUGH: The Government is ready, your Honor.

JUDGE FEE: You may proceed.

OPENING STATEMENTS¹⁴

NARRATOR 1: It was undisputed at trial that Yasui had knowingly violated the curfew. Rather, the principal issue was a legal one -- the constitutionality of the curfew order. Yasui was a U.S. citizen, and the curfew order applied to all persons of Japanese ancestry, including American citizens of Japanese descent. The curfew order did not, however, apply to any other American citizens.

In its opening statement, the Government did not address the constitutionality of the curfew, but alluded to two other lines of attack: first, Yasui had forfeited his American citizenship by his actions on behalf of the Consul General of Japan, and second, the military orders were necessary because the racial characteristics of the Japanese predisposed them to sabotage and subversion.

DONAUGH: Your Honor. The indictment charges the defendant Minoru Yasui with having failed to comply with Public Proclamation No. 3 The Government charges that the de-

¹³ The opening statements are derived from the Transcript of the Trial Proceedings of June 12, 1942 at 1-2, United States v. Yasui, 48 F. Supp 40, No. C-16056 (D. Or. 1942).

¹⁴ The opening statements by Donaugh and Bernard are derived from the Transcript of the Trial Proceedings of June 12, 1942 at 2-3, *Yasui*, No. C-16056.

defendant, a Japanese, by reason of being a person of Japanese ancestry, was absent from his place of residence on and about March 28, 1942, by failing to comply with the orders requiring that all persons of Japanese ancestry be at their places of residence from 8 P.M. until 6 A.M. the following day.

The facts are that he appeared here in Portland after the 8 o'clock hour, walking into the Police Station at 11 P.M., or thereabouts, and was taken into custody by the Portland Police Department.

That, in brief, your Honor, is the nature of the offense charged.

The Government is also prepared to introduce other testimony concerning the defendant, and if the opportunity presents, the Government has information as to certain beliefs which may be shared by persons of Japanese ancestry, should such evidence be pertinent to the case in hand.

BERNARD: If your Honor pleases The evidence in this case will show that Mr. Yasui is an American citizen, and we will introduce evidence to show that he has never been divested of that citizenship, and that at the time of the alleged commission of the acts charged in this indictment he was an American citizen and entitled to all the privileges and immunities that attach to that status.

It will be our contention that this proclamation as applied to this defendant, and, indeed, the Executive Order of the President, are void as a violation of the constitutional rights that attach to citizenship, and it will be our further contention that the war power of the Government of the United States does not diminish constitutional guaranties, particularly the guaranties attaching to citizenship under the fourth, fifth and sixth amendments to the Constitution of the United States.

JUDGE FEE: Proceed.

THE GOVERNMENT'S CASE

NARRATOR 2: The Government called as its first witness Sergeant William Maas of the Portland police department.

DIRECT EXAMINATION OF WILLIAM MAAS by DONAUGH¹⁵

Q. Did you, at any time on March 28, 1942, have occasion to see Minoru Yasui, the defendant in this case?

A. Yes, sir.

Q. Whereabouts did you see him?

A. He came into the Police Station.

¹⁵ The following is derived from *id.* at 4-6.

Q. At what time?

A. Eleven-twenty P.M.

Q. What took place when he came into the Police Station?

A. He came in and said he wanted to be arrested, he wanted to test the constitutionality of that alien curfew law. He said he had been down in the North End; he asked several policemen down there to arrest him, but they wouldn't do it, and so he came into the Station.

Q. Did you have any further conversation with him?

A. He told me he was an American citizen, he lived at Hood River, and he wanted to test this case for the Japanese.

Q. And he was placed under arrest, was he?

A. Yes, sir.

Q. Have you had occasion at any time to talk to him again?

A. No.

DONAUGH: That is all, Sergeant.

BERNARD: No cross-examination.

NARRATOR 1: The Government next called Special Agent Vincent Quinn of the FBI. Quinn had interviewed Yasui twice: first, in January 1942, shortly after the declaration of war against Japan, when Yasui visited the FBI, and second, in April 1942, a few days after Yasui was arrested for violating the curfew.

DIRECT EXAMINATION OF VINCENT QUINN by DONAUGH¹⁶

Q. Will you state when you spoke with the defendant, Minoru Yasui?

A. On January 12, 1942 Mr. Yasui visited our office, at which time he advised that he was returning from Chicago, Illinois, where he had been employed by the Japanese Consulate. He exhibited to me a card verifying that he was registered with the Department of State as an agent for a foreign principal. Mr. Yasui told me that he withdrew the registration on December 8th. He also exhibited to me a certified copy of a birth certificate, which showed that he was born in Hood River, Oregon. Mr. Yasui also advised me that he was a Second Lieutenant in the United States Army and that he expected to report for a physical examination around January 19, 1942, at which time he thought he would be inducted into the active forces of the United States.

¹⁶ The following is derived from *id.* at 7-9.

- Q. When did you speak with the defendant again?
A. On April 3rd, I visited at the Portland Police Department after our office had been advised that Mr. Yasui had surrendered himself.
- Q. Did he make any statement as to the nationality of his parents?
A. Yes. He told me they were Japanese aliens.
- Q. Do you know how long the family or the parents of the defendant have lived at Hood River?
A. That was not discussed, although Mr. Yasui told me that his father was not at Hood River at that time.
- Q. Was any information given you concerning the defendant's education?
A. Yes, he stated that he had graduated from the University of Oregon. He stated that he had been admitted to practice before the local courts and that he was an attorney at law.
- Q. Now, you mentioned that he withdrew from his employment with the Japanese Consul General on, did you say, December 9th?
A. December 8th, 1941, the day after the declaration of war with Japan.
- Q. You testified a moment ago about the defendant holding a commission in the United States Army. Do you know how he acquired that commission, or when?
A. He advised me that he acquired the commission by taking a reserve officers' training course while attending the University of Oregon R.O.T.C. course.
- Q. And he still held that commission at the time you talked with him?
A. He stated that he did.

DONAUGH: That is all, Mr. Quinn.

CROSS-EXAMINATION OF QUINN by BERNARD¹⁷

- Q. Just a moment; I want to ask you a question or two, Mr. Quinn. Your first contact with this man was on January 12th, was it?
A. That is right.
- Q. Did he come to your office voluntarily, or had you sent for him?
A. He came to the office voluntarily.
- Q. Did he state what the purpose of his call was?
A. He did.

¹⁷ The following is derived from the Transcript of the Trial Proceedings of June 12, 1942 at 9-11, *Yasui*, No. C-16056.

Q. What was it?

A. He stated that he came to the office to inquire as to whether or not he could assist his father in any way. His father at the time was in Federal custody. He had been apprehended as an alien enemy.

Q. Well, you mean his father had been taken into custody up at Hood River as an alien enemy.

A. That is right.

Q. And after discussing that matter, did Minoru Yasui tell you that he had been employed in the Japanese Consul's office at Chicago?

A. That is right.

Q. Did he tell you in what capacity he had been employed?

A. He stated that he was doing general secretarial work and acting as a clerk.

Q. Did he tell you when he had resigned this position in Chicago?

A. Yes, he did. He stated that he had notified the Secretary of State on December 8th, 1941. He stated that his father asked him to do so.

BERNARD: I think that is all, Mr. Quinn.

NARRATOR 2: Quinn was not asked about the circumstances under which Yasui's father had been taken into custody. The attack on Pearl Harbor had unleashed an immediate storm of anti-Japanese prejudice and resentment. Well before the military orders were issued, FBI agents swept through Japanese-American communities in California, Oregon, Washington, and Hawaii, arresting hundreds of Japanese-Americans.¹⁸ Yasui's father was among them. Community leaders, teachers, religious figures, and businessmen suspected of having ties to Japan were rounded up, questioned, and detained. As the anti-Japanese sentiment built, Japanese-Americans -- citizens and non-citizens alike -- lived in a state of fear.

Ray Mize, another FBI agent, testified next. He had interviewed Yasui in March 1942, two days after his arrest. Mize testified that Yasui made two incriminating statements: first, he said he was sorry for violating the curfew and, second, he agreed with the Government's decision to intern Japanese-Americans.

¹⁸ See Kang, *supra* note 2, at 937.

DIRECT EXAMINATION OF RAY MIZE by DONAUGH¹⁹

Q. Why did you talk to him?

A. At my request, Mr. Yasui called at the office to be questioned as to the violation of the curfew regulation.

Q. What was said?

A. Mr. Yasui discussed with me a little bit of his background. . . .He then stated that he had given himself up voluntarily at the Police Station to test the constitutionality of the regulation. He stated that he was an American citizen of Japanese descent and he felt that the regulation was unconstitutional, because it discriminated against one group of United States citizens and did not apply to all citizens, and he felt that the large majority of the Japanese citizens in this country were loyal to this country and wanted to do their part in the present war.

Q. What else was said?

A. I discussed with him briefly the war itself and asked him whether he felt that the Japanese government had acted fair and square in the present war, and he said frankly that he did not think that the Japanese government had, and as a result American citizens of Japanese descent in this country were being unjustly discriminated against and would suffer for the crimes of another.

Q. Was there anything else?

A. I asked him if he felt that during these particular times his action in violating the curfew would reflect very favorably on the Japanese colony, and Mr. Yasui stated that when thinking it over he did not think that it would be a very good reflection and that in a certain sense he was sorry that he had taken that action.

DONAUGH: [pausing first] May it please the Court, your Honor --

[MIZE raises his hand, hesitantly]

JUDGE FEE: The witness suggests, Mr. Donaugh, that he did not complete his answer, apparently that he had forgotten something.

DONAUGH: Oh, I see.

MIZE: I have another point I would like to bring up. I asked Mr. Yasui what he would do if he was in charge of the West Coast here, and an invasion of this country was very probable, and I asked him what he would do to be very sure that the internal security of this country would be absolutely protected, and Mr. Yasui said, "Well, that is a rather hard question at this time," but

¹⁹ The following is derived from the Transcript of the Trial Proceedings of June 12, 1942 at 9-11, *Yasui*, No. C-16056.

after due hesitation he finally stated that "I feel I would intern all Japanese aliens and Japanese citizens." That is all.

CROSS-EXAMINATION OF MIZE by BERNARD²⁰

- Q. Just one question. Mr. Mize, did I understand you to say that he told you that the reason that he had resigned was that he felt that he then could not be a loyal American and keep his employment in the Consul General's office?
- A. He implied as much, Mr. Bernard.

BERNARD: That is all.

DIRECT EXAMINATION OF ALAN DAVIS by DONAUGH²¹

NARRATOR 1: We turn now to the testimony of another FBI agent, Alan Davis, who was present when Mize interviewed Yasui in March.

- Q. Will you state the nature of the conversation you had with the defendant at that time?
- A. Mr. Mize had been discussing affairs with Mr. Yasui when I entered the room, and I had previously known Mr. Yasui and I started talking with him, regular conversation. We were discussing the patriotism of the Japanese, and the question was asked by Mr. Mize as to the loyalty of the Japanese in Oregon, whether Mr. Yasui could say that he could depend upon them if there were an attempted invasion in this country, whether he would detain all the Japanese, including the aliens as well as the American-born Japanese citizens. Mr. Yasui more or less hesitated in answering the question, but he stated quite definitely that he would intern not only the aliens but also the American-born Japanese in that case.
- Q. You had known the defendant previously, had you?
- A. Yes, sir.
- Q. At the University of Oregon?
- A. Law School and prior to our entrance in Law School, yes, sir.
- Q. Now, the circumstances under which Mr. Yasui talked with you and with Mr. Mize were what? . . . Was there any discussion at all as to what consideration he would receive by you should he testify or speak to you about this matter?
- A. No, sir.
- Q. No threats or --
- A. **[Interrupting]** No, sir.

²⁰ The following is derived from *id.* at 17.

²¹ The following is derived from *id.* at 22-24.

Q. [Continuing] -- duress of any kind?

A. No, sir.

Q. Promises?

A. None.

Q. He seemed to be talking freely and with ease to you?

A. Yes, sir.

CROSS-EXAMINATION OF DAVIS by BERNARD²²

Q. Now, as I understand it, Mr. Davis, you came in on March 30th when Mr. Yasui had already been engaging in a conversation with Mr. Mize?

A. Yes, sir.

Q. And something came up about locking up the Japanese to prevent sabotage?

A. I did not mention sabotage, no, sir.

Q. Locking them up for what purpose?

A. Well, for protection of this country.

Q. Well, in what way?

A. Well, I would assume that he meant that he would be unable to trust the Japanese on the West Coast.

Q. Pardon me, I am asking you what he *said* about that.

A. Well, he stated that if he had anything to do with it and there might be an attempted invasion of this country he would detain aliens as well as the citizens.

Q. And how did he come to say that, do you remember? What brought that up?

A. The question was asked by Mr. Mize, as I recall, that if he should be in charge of military affairs on the West Coast, what he might do under those circumstances.

Q. Now, let me refresh your recollection. Isn't this about what happened, that somebody was pressing the subject as to how the commander of the army would be absolutely sure of the protection of the country without locking up the Japanese, and Mr. Yasui said, "Well, if you wanted to be absolutely sure I suppose they would be locked up," and that somebody remarked, "To the same extent that if God wanted to be absolutely sure that there wouldn't be any wars fought, why, we should kill off all the human beings." Now, does that refresh your recollection any?

A. No, sir.

²² The following is derived from *id.* at 24-25.

BERNARD: I see. That is all.

DIRECT EXAMINATION OF LESLIE SCOTT by DONAUGH²³

NARRATOR 2: The Government concluded its case by calling two witnesses who had been members of the Alien Enemy Hearing Board in Oregon.²⁴ They had participated in a hearing in Fort Missoula, Montana, in February 1942 to determine the fate of Yasui's father after he was detained as an enemy alien. Now the Government sought to use Yasui's testimony at the hearing to show that he was disloyal.

The second of these witnesses was Leslie Scott, the state treasurer of Oregon.

Q. Have you had any connection, Mr. Scott, with the alien enemy situation in Oregon?

A. A member of the Alien Enemy Hearing Board for this state.

Q. And in connection with your duties as a member of the Alien Enemy Hearing Board have you before today seen the defendant?

A. At Fort Missoula, on February 3rd, at a hearing of the Board, Mr. Yasui testified on behalf of his father.

Q. Do you recall, Mr. Scott, what the defendant said with respect to his own activities and employment?

A. He stated that he had been in the service of the Japanese Consul General in Chicago as secretary to the Consul General and as a public relations agent or representative.

Q. Was anything said in regard to his duties as public relations representative?

A. He was to attend to the correspondence of the Consul General, he, Mr. Yasui, having ready command of English, and he was to make speeches on subjects approved by the Consul General.

Q. Was anything said as to how many speeches were delivered?

A. I don't now how numerous they were. I gained the impression that they were rendered on a number of occasions before groups of American citizens.

Q. Did he say what the subjects of these talks were?

A. They pertained to the conduct of the Japanese war against the Chinese, justification of Japanese policy toward China, and justification of the war against China.

²³ The following is derived from *id.* at 25-32.

²⁴ For more background on the Alien Enemy Hearing Board, see Charles W. Harris, *The Alien Enemy Hearing Board as a Judicial Device in the United States during World War II*, 14 INT'L & COMP. L. Q. 1360 (Oct. 1965).

- Q. Was there any discussion before your Board concerning how the defendant obtained his position with the Japanese Consul General's office?
- A. Yes. Mr. Yasui said that he had graduated from the University of Oregon Law School, and his father was desirous of making a connection for him with the Japanese Consul General. The father wrote a letter to the Consul General describing the qualifications of the young man.
- Q. I take it, then, that his employment with the Japanese Consul General was on the basis of the recommendation of his father, is that correct?
- A. That was the distinct impression that the Board received.
- Q. And the father was also before your Board?
- A. The father was before our Board at the time and the son appeared as friend or relative or advisor of his father.
- Q. And what was the nationality of the father?
- A. The father is a native-born Japanese. The son was born in the United States; he was 25 years of age last February. The father had given the son the advantages of an American education.

NARRATOR 1: Following the Alien Enemy Board hearings in Missoula in February 1942, Yasui's father was classified "disloyal." He was kept in detention until 1945.

THE MILITARY ORDERS²⁵

NARRATOR 2: The Government concluded its direct case by offering certain exhibits. Donagh first read from Public Proclamation No. 1, which declared "the entire Pacific Coast of the United States" a military zone because it was "particularly subject to attack, to attempted invasion by the armed forces of nations with which the United States is now at war, and . . . to espionage and acts of sabotage."²⁶

Donagh then read from Public Proclamation No. 3:

DONAUGH: [reading from the order] "From and after 6 a.m., March 27, 1942, all alien Japanese, all alien Germans, all alien Italians, and all persons of Japanese ancestry residing or being within the geographical limits of [the designated areas] . . . shall be within their place of residence between the hours of 8 p.m. and 6 a.m., . . . the hours of curfew."²⁷

The Government rests, your Honor.

²⁵ The following is derived from the Transcript of the Trial Proceedings of June 12, 1942 at 33-36, *Yasui*, No. C-16056.

²⁶ Public Proclamation No. 1, 7 Fed. Reg. 2320 (Mar. 26, 1942).

²⁷ Public Proclamation No. 3, 7 Fed. Reg. 2543 (Apr. 2, 1942).

THE DEFENSE CASE

NARRATOR 1: The defense called only one witness, Minoru Yasui himself.

DIRECT EXAMINATION OF MINORU YASUI by BERNARD²⁸

Q. Your name is Minoru Yasui?

A. That is correct.

Q. And you are the defendant in this criminal action?

A. I am, sir.

Q. Have you ever in your life time received any questionnaire from the government of Japan relative to your willingness to engage in any military activity or any activity in Japan?

A. I have received no such questionnaire from the government of Japan.

Q. Did you ever take a trip to Japan?

A. Yes, sir, I did.

Q. When?

A. To the best of my recollection it was in 1925, when I was about eight years old. We left the United States sometime in July and returned approximately in September. It was just a summer vacation.

Q. Were you asked when you were over there to take any oath of allegiance or do anything towards taking out citizenship in Japan?

BURDELL: Object to that as immaterial, your Honor.

JUDGE FEE: The objection is sustained.

BERNARD: I wish to make an offer of proof, your Honor. I offer to prove by this witness that while he was in Japan at that time he did not take an oath of allegiance to Japan or take any steps to become a citizen of Japan.

JUDGE FEE: He couldn't. He was a minor. He had no election until after he had passed the age of twenty-one.

Q. By the way, this trip that you took to Japan when you were about [eight] years old, were you ever in Japan after that?

A. No, sir, I have never been in Japan since that time.

²⁸ The following is derived from the Transcript of the Trial Proceedings of June 12, 1942 at 33-36, *Yasui*, No. C-16056.

Q. Ever resided in any foreign country at all?

A. No, sir.

Q. Have you voted in the United States?

A. I have, sir.

Q. Have you ever voted in any other country?

A. No, sir, I have not.

Q. Now, what date did you finish Law School, Mr. Yasui?

BURDELL: If the Court please, I object to that as incompetent, irrelevant and immaterial.

JUDGE FEE: Oh, I think it is preliminary. He may answer.

Q. When did you finish Law School?

A. In June of 1939.

Q. And when did you go to work for the Consul General in Chicago?

A. The following year, in April, 1940.

Q. And what did you do in the meantime?

A. Well, pending the results of the bar examination I helped as a ranch hand on my father's farm. In approximately September we heard the results, and having completed the bar I attempted to practice law both in Hood River and, for a short while, in Portland, Oregon.

NARRATOR 2: Bernard then asked Yasui to explain his work at the Japanese Consul General, seeking to dispel the notion that Yasui was a disloyal American or a Japanese loyalist.

Q. Now, tell the Court how you secured this position.

A. There was a letter written by my father to the Consul General stating that I had graduated law school. I secured letters of recommendation from Dean Wayne L. Morse, of the Oregon Law School, and from people in Hood River and in Portland. Because there was a need for a man who could speak English as well as Japanese and, I suppose, also because of my record at the University of Oregon, I was selected.

Q. And when did you go to Chicago?

A. I arrived in Chicago on April 1st, 1940.

Q. Were you required at that time to take any oath of allegiance?

A. I was not required --

BURDELL: [interrupting] Objected to, your Honor, as incompetent, irrelevant and immaterial.

JUDGE FEE: Well, I am not sure that it is incompetent, if he took an oath of allegiance after he arrived at the age of majority.

BURDELL: Well, your Honor, the defendant is charged with violating Public Proclamation No. 3, which applies to *all* persons of Japanese ancestry residing or being within the geographical limits of Military Area No. 1. It is not limited to alien Japanese.

JUDGE FEE: I know it is not, and that is what makes me doubt its constitutionality; therefore, I hold that the proof is competent to establish whether there be citizenship, notwithstanding that your indictment did not allege that this man was a citizen . . . Proceed.

BERNARD: Would you read the witness the question, Mr. Reporter.

COURT REPORTER: [holding up stenotype paper and reading] "Were you required at that time to take any oath of allegiance?"

A. I was not required to take any oath of allegiance when I began my employment with the Consulate General in Chicago.

Q. At any time during your employment?

A. No, sir.

Q. Now, will you please state to the Court your duties in that position and what you did.

A. I was employed as a general secretary in charge of the correspondence. There was an American fellow by the name of Bob Murphy and myself. We received the morning mail, submitted them to the Consul General, and the Consul General would submit one of the letters to either Murphy or myself to answer, because of our facility with the English language. . . . Also on various occasions the Rotary Clubs and civic organizations would call upon the Consul to send a man to explain the position of Japan in the Far East, or perhaps some club or organization would want to know about flower arrangements. I did go to such meetings to make such speeches.

Q. I believe one of the witnesses testified that you said up in Missoula that you were first a secretary and then a sort of public relations man.

A. Well, as I recall my testimony at Fort Missoula, no such statement was made that I was ever a public relations man. However, I did testify, as I do now, that I did make certain speeches there, if that be so construed as public relations.

Q. And did you make speeches with regard to Japan's position in the war with China?

A. Yes, I did, sir.

Q. When did you first hear of the attack on Pearl Harbor?

A. On December 7, 1941.

Q. When did you resign your position?

A. As I recall, on the 8th day of December, 1941.

Q. And why did you resign?

A. Because I felt that as a loyal American citizen I could not be working for the Japanese Consulate after the declaration of war.

Q. Did you receive any advice on that from anybody?

A. No advice that prompted me to so act, except possibly a telegram from my father, that he wired me that now that this country --

BERNARD: [interrupting] You can't state the contents of it. I would like this wire marked for identification. **[handing telegram dated December 8, 1941 to witness]** Is this the wire you received from your father?

YASUI: Yes.

BERNARD: I would like to offer the wire in evidence.

BURDELL: Objection as immaterial. We also object that it is hearsay and self-serving.

JUDGE FEE: The Court has ruled that it is pertinent to show whether this defendant is an American citizen. That depends on the question of his intention. The objection that this is self-serving goes simply to the question of weight rather than admissibility. I think it may throw some light on his intention. It is admitted.

BERNARD [reading]: This is a telegram dated December 8th, 1:00 A.M., Hood River, Oregon, addressed to "Minoru Yasui." It reads: "As war has started your country needs your service as a United States reserve officer. I as your father strongly urge you to respond to the call immediately."

Q. What did you do about offering your services to your country, Mr. Yasui?

A. Before that --

JUDGE FEE: [interrupting] Just a moment. I think that is objectionable.

BERNARD: Well, I don't know what your Honor has in mind. I am offering it also as to his intentions.

JUDGE FEE: You may ask him what he did toward offering his services to Japan or the United States, whichever you wish.

BERNARD: All right, I will confine it to the United States.

Q. What did you do towards offering your services to the United States?

A. I immediately wired Headquarters, at Portland, Oregon, offering my immediate services.

Q. Have you ever been called to active service, Mr. Yasui?

A. No, sir.

Q. And are you willing to go in active service at any time?

A. I am, sir.

NARRATOR 1: In fact, after he had resigned his position with the consulate in Chicago, Yasui reported for duty to Fort Vancouver in Washington, across the Columbia River from Portland. After just one day, however, he was ordered off the base because of his ancestry. He would go back to the Fort eight times trying to serve, but each time he was turned away. Bernard moved to Yasui's statements to the FBI agents.

Q. Now, when did you return to the West?

A. I returned to Portland on January 12, 1942.

Q. When did you go up to the FBI office?

A. On the afternoon of my arrival here in Portland.

Q. What was your purpose in going to the FBI office?

A. The FBI Special Agent in Chicago suggested it would be wise for me to keep in touch with the FBI agents in Portland.

Q. And it was for that reason that you went up there?

A. And incidentally to inquire about my father, whom I had not seen for the last two years.

Q. Now, you had a conversation with Mr. Mize. State your version of that conversation.

A. In general, the conversation as reported by Mr. Mize is correct. We did discuss our school days, and then . . . Ray Mize posed the question that if I were the Commander in Chief, knowing that an imminent invasion was possible, how would I be absolutely sure that the security of this country would not be in danger. Well, the only logical answer would be to intern the Japanese. However, I asked the academic question, if Mize himself was God almighty how would he be absolutely sure to prevent wars? Mize answered that he would destroy the people. Of course, that is the extreme view, but we did converse along those lines.

Q. Well, at that time do you know whether there had been any orders removing the American citizens?

A. At that time there was no such order.

Q. And this was a sort of an academic discussion?

A. It was a hypothetical question at the time, yes, sir.

Q. I believe Mr. Mize also said that you were sorry that you had taken the action that you had.

A. The question was whether I believed any repercussions would happen from my testing the constitutionality of the curfew act, and I believed that possibly there would be repercussions that would be harmful to the Japanese colony.

Q. And what did you have in mind when you made that last statement?

A. Well, there is always a possibility of more stringent regulations being imposed, and, secondly, the public resentment against anyone, possibly, testing the constitutionality of an Army order.

Q. Now, have you ever obtained or attempted to obtain naturalization in any foreign state whatsoever?

A. No, sir, I have not.

Q. Have you ever taken an oath or made a declaration of allegiance to a foreign state?

A. No, sir.

Q. Have you ever entered into or served in the armed forces of a foreign state?

A. No, sir, I have not.

Q. Have you ever deserted the military or naval services of the United States?

A. No, sir, I have not.

Q. In time of war or otherwise?

A. No, sir.

Q. Have you ever committed any act of treason or attempted by force to overthrow or bear arms against the United States?

A. No, sir.

Q. And, as far as you know, have you ever, either intentionally or unintentionally, done any act to renounce citizenship in the United States of America?

A. To the best of my knowledge, I have never renounced my American citizenship.

NARRATOR 2: The relocation and internment orders had resulted in many Japanese-American families being torn apart, as in many instances family members were dispersed to different camps. Bernard concluded the direct examination by asking Yasui about his family.

Q. Where are you residing now?

A. Presently I am at the W.C.C.A. Assembly Center at North Portland, Oregon.

Q. That is where the Japanese are being detained twenty-four hours a day?

A. That is correct, sir.

- Q. Do you know where your father's residence is?
 A. I understand it to be at Camp Livingston, Louisiana.
- Q. And where is your mother?
 A. I believe in Pineville, California.
- Q. Have you got some sisters?
 A. Yes, sir, one sister. I believe she is now in Denver, Colorado.
- Q. She was younger than you?
 A. Yes, sir. She just graduated at the University of Oregon.

NARRATOR 1: We move to the Government's cross-examination. After a few background questions, Donagh examined Yasui at length about his ability to speak Japanese and his activities with other Japanese-Americans. These seemingly innocuous matters were an important part of the Government's strategy, as the Government would later argue to the Supreme Court that the Japanese language schools and Japanese organizations and societies were used to "indoctrinate" the Japanese on the West Coast with Japanese nationalism.²⁹

CROSS-EXAMINATION OF YASUI by DONAUGH³⁰

- Q. Do you speak Japanese?
 A. I do, sir.
- Q. And where did you learn to speak Japanese?
 A. I learned it from my parents.
- Q. Do you speak Japanese in your home?
 A. To a certain degree, yes, sir.

²⁹ The Supreme Court seemed swayed by the government's argument in *Hirabayashi*, finding:

"There is support for the view that social, economic and political conditions which have prevailed since the close of the last century, when the Japanese began to come to this country in substantial numbers, have intensified their solidarity and have in large measure prevented their assimilation as an integral part of the white population. In addition, large numbers of children of Japanese parentage are sent to Japanese language schools outside the regular hours of public schools in the locality. Some of these schools are generally believed to be sources of Japanese nationalistic propaganda, cultivating allegiance to Japan . . . Viewing these data in all their aspects, Congress and the Executive could reasonably have concluded that these conditions have encouraged the continued attachment of members of this group to Japan and Japanese institutions . . . [W]e cannot reject as unfounded the judgment of the military authorities and of Congress that there were disloyal members of that population, whose number and strength could not be precisely and quickly ascertained." 320 U.S. at 96-99.

³⁰ The following is derived from the Transcript of the Trial Proceedings of June 12, 1942 at 54-63, *Yasui*, No. C-16056.

Q. Have you spoken Japanese for a good many years?

A. Ever since I can recall.

Q. Ever go to a Japanese language school or Japanese school of any kind?

A. Yes, sir, for three years.

Q. Whereabouts was that?

A. At Hood River, Oregon.

Q. What was the name of that school?

A. I think they called it the Japanese language school.

Q. Did you have any Japanese societies or organizations which you attended in Hood River or elsewhere?

A. By Japanese societies what do you mean?

Q. Organizations or associations of Japanese people?

A. There is the Japanese Methodist church, of which my father and mother are members, which I attended on Sundays; and the Japanese-American Citizens League; and that is about all.

Q. Ever belong to any Japanese fencing clubs?

A. No, sir.

Q. Or riding clubs of any kind?

A. No, sir.

Q. Are you a member of the Methodist church?

A. I am, sir.

Q. In the Japanese language school what language is used there?

A. Both English and Japanese.

Q. But you went there to learn and become proficient in Japanese, is that it?

A. To attempt to become proficient, yes.

NARRATOR 2: Donough then turned his attention to Yasui's employment at the Japanese consulate and his father's involvement in the community. Although the Government suggested that Yasui's work for the Japanese consulate and his family's ties to Japan evidenced his disloyalty to the United States, it was only after Yasui had been unable to find employment as a lawyer that his father helped him obtain the consulate position in Chicago. Moreover, although Yasui's father was a leader in the Japanese-American community in Oregon, he had also been active in the largely white apple growers' association in Hood River.

Q. You didn't know the Japanese Consul General directly?

A. No, sir.

Q. Then your contact with him was through whom?

A. My father.

Q. Did your father and the Consul have any close contacts, so far as you know?

A. Well, as I understand, the Hood River community has about five hundred Japanese, and every Consul here goes up to Hood River about once a year to contact various people, and my father through those contacts had undoubtedly met the Japanese Consul.

Q. Your father has been rather active in the Japanese colony in Hood River, hasn't he?

A. He has been very, very active in advancing the betterment of that community, yes, sir.

Q. Contributed money to the Japanese war fund?

A. As to that I have no knowledge.

Q. Well, isn't it a fact that your father testified in your presence before the Alien Hearing Board that he had contributed money to the Japanese war fund!

BERNARD: We will object to that, your Honor. This young man would not be bound, under the circumstances there prevailing, by anything that his father said in that hearing.

JUDGE FEE: No, I don't think it is binding. I will sustain the objection.

Q. Were you present at the ceremony in the Japanese Consul's office in Portland when your father was given a high honor by the Japanese government in 1940?

A. No, sir, I was not.

Q. You are aware of the fact that he received recognition by the Japanese government?

A. For the work that he had done in promoting better relations between the Japanese and Americans in Hood River Valley, yes.

Q. Now, in regard to your work in Chicago, you had occasion to deliver speeches occasionally at the request of the Consul General?

A. That is correct, sir.

Q. And where would you receive your directions to deliver a speech at a certain time?

A. From the Consul General.

NARRATOR 1: Donaugh then turned to the relations between the United States and Japan and the hostilities that had arisen in China.

Q. Well, now, when you went to work for the Japanese government through the Japanese Consul General, you were aware, were you not, that conditions between Japan and the United States over a number of years had caused considerable comment and difficulty, indicating the possibility of strained relations between this country and Japan? You knew that, did you not?

A. Yes, I did.

- Q. Did you not know that even as far back as 1937, an American gunboat and American sailors had been fired on by the Japanese, and that and a series of companion acts in China, where American citizens were involved, had caused strained conditions between those two countries?
- A. Yes, I understood all those things and it was my purpose when I worked for the Consul General of Japan possibly to work for a better relationship.
- Q. But you testify that you had no discretion in what you did, that you did what you were told to do by the Japanese Consul?
- A. That is correct.
- Q. And you did not exercise your opinions as an American citizen, but did what the agent of the Japanese government asked you to do and said what he asked you to say?
- A. That is correct, to bring out what the Japanese government had to say to the attention of the American people, to express it so it could be understood.
- Q. And well knowing that the attitude of this Government and the American people was contrary to the policy of Japan that you were defending, speaking about?
- A. Because I thought it was my contribution to the preservation of peace. As it turned out, we were wrong, but that was my sincere purpose in working for the Consulate General of Japan.

DONAUGH: That is all.

EXAMINATION OF YASUI by JUDGE FEE³¹

NARRATOR 2: Just as it appeared that Yasui's testimony was complete, Judge Fee interjected and proceeded to question him.

- Q. What is Shinto?
- A. Shinto? As I understand, Shinto is the national religion of Japan.
- Q. Do you give adherence to its precepts?
- A. My father and mother were Methodists in Japan, and I myself have been a Methodist in this country and I don't know the precepts of the Shinto religion.
- Q. Was not Shinto practiced in your household?
- A. No, sir.
- Q. By your father and mother?
- A. It was not, no, sir.

³¹ The following is derived from *id.* at 66-70.

- Q. That includes some of the phases of ancestor worship, does it not? You know enough about it to know that.
- A. Yes, if I understand it, that is so.
- Q. Does the Emperor of Japan have a religious rapacity?
- A. Well, I am not really versed enough to state definitely, but I understand that he has, yes.
- Q. And do you give adherence to that belief?
- A. I do not. To me he is a human being.
- Q. And you do not accept divine pretensions on the part of the Emperor of Japan?
- A. No, sir, I do not.
- Q. Were offerings ever made in the graveyard or before the grave of any of the people of your family?
- A. Offerings? Floral offerings, yes, on Memorial Day and on Sundays.
- Q. Were there not food offerings placed?
- A. There were no food offerings placed. Both my father and mother are good, devout Methodists. They are really Christians.
- Q. Do you believe in the sanctity of an oath?
- A. I do, sir.
- Q. Have you accepted an oath of allegiance to the United States?
- A. I did.
- Q. And on that occasion did you accept some other obligations?
- A. To preserve and defend the Constitution of the United States, yes.
- Q. You still hold a commission as a reserve officer in the Army of the United States?
- A. I do.
- Q. Is there any obligation on you, under those circumstances, to obey an order of the Commanding General of the Western Command or the President of the United States as Commander-in-Chief of the Armies?
- A. Yes, I believe that there is a certain obligation as an American citizen to respect the Constitution of the United States.
- Q. I am not speaking of your obligation as an American citizen. I am speaking of your obligation as a reserve officer in the Army of the United States.
- A. At the time of my active service, I will obey any order of my commanding officer.
- Q. You don't think that your oath requires you to obey any order of the Commander-in-Chief of the Armies of the United States until he calls you to active service?
- A. As a private citizen --

Q. I am not talking about your obligation as a private citizen. I am talking about your obligation as a reserve officer of the United States Army. What are the obligations?

A. To hold myself in readiness for active service at any time; to obey the Constitution and laws of the United States.

Q. And you thought there was no special obligation on you to obey this particular order?

A. Yes, I took that into consideration, but I feel that, after all, this country is dedicated to the proposition that all men are created equal, that every American citizen has a right to walk up and down the streets as a free man, and I felt that these regulations were not constitutional.

Q. If as a Second Lieutenant on active duty you had been given the same order by the Commanding General of the Western Department would you have obeyed it?

A. I would have, sir.

Q. And what distinction do you make now?

A. Because I am now a civilian.

Q. And in the event you were on active duty would you then think it was proper to by indirection disobey such a command by invoking other people, Japanese people, to test the constitutionality of this as a law?

A. No, I would not, because at that time, if I were in active service, I would obey the command of my commanding officer, wherever he sent me.

Q. No matter where he sent you?

A. Yes.

Q. Would you also construe the oath of allegiance to allow you to disobey an order, any order, that was incumbent upon an American citizen?

A. No, sir, I could not.

JUDGE FEE: I think that is the extent of my examination.

BERNARD: The defendant will rest his case, your Honor.

THE GOVERNMENT'S REBUTTAL CASE³²

NARRATOR 1: The Government immediately called a rebuttal witness, a union representative, to testify about labor disputes involving Japanese workers. The Government's theory was that the curfew order was a reasonable response to the hostilities that had arisen between white and Japanese workers.

³² The following is derived from *id.* at 70-73.

Bernard objected.

BERNARD: Your Honor, the fact that there may have been some labor troubles between white people and Japanese would not affect the question one way or the other as to whether the Government has a right to discriminate against Japanese citizens because of their race. How the fact that there might have been some isolated labor trouble in some locality between Japanese and white people should justify a discrimination against my client, who was not a party to that, solely on the ground of his ancestry -- we object to as wholly immaterial to any issue in the case.

NARRATOR 2: Judge Fee sustained the objection. Undeterred, the Government attempted to call yet another witness -- a purported expert on the Japanese as "a race of people." *Yasui* was the first of the military orders cases to go to trial, but it involved only the curfew. It would set the stage for the more difficult cases to come involving the Government's power to intern Japanese-Americans in barbed-wire camps. The Government wanted to test its argument that Japanese-Americans -- because of their racial characteristics -- were more likely than others to engage in subversive activities.³³

BURDELL: May it please the Court, I desire to advise your Honor of the availability of a man who is familiar with the Orient, and in particular the Japanese people, a distinguished scholar, an educator, who is available to testify as to the Japanese as a race of people, and to their ideals and culture and their type of loyalty. Now, this man is here as an expert, and, in view of the nature of this case, before the Government closes its case I desire to inform the Court of the availability of this man.

BERNARD: Well, your Honor, if this man has any evidence against my client, of course I can't object to it, but I certainly am going to object to any testimony or dissertation by some man as to his conclusions as to what some of the Japanese might do under certain conditions. . . .

JUDGE FEE: Why, I will exclude the general offer. I can't tell from this general offer what the specific matters are to be proved, and if it is just general like that, I have no interest in hearing it. If you wish, put him on the stand, and I will rule on the questions as they come up.

BURDELL: Well, obviously, your Honor, the witness has no acquaintance whatever with the defendant. His testimony would deal with the Japanese and their attitude, their race, culture, religion, both here in America and in Japan. I only advise the Court of his presence here should his testimony be of interest to your Honor.

JUDGE FEE: I might say that I have no interest in this matter at all. You call him as a witness, if you want to, and put him on the stand and ask him whatever questions you want to, and if the other side wants to object, why, the Court will rule.

DONAUGH: The Government rests, your Honor.

³³ See, e.g., *Hirabayashi*, 320 U.S. at 96-99.

NARRATOR 1: Although the Government elected not to test Judge Fee's patience with its "racial characteristics" argument, it would press the argument in later proceedings. In 1943, when he issued his Final Report on the "Japanese Evacuation from the West Coast," General John DeWitt maintained that the military orders were required because of evidence of espionage by Japanese-Americans.³⁴ He cited "hundreds of reports nightly of signal lights visible from the coast, and of intercepts of unidentified radio transmissions."³⁵ These assertions became an important part of the Government's "military necessity" argument. This was so even though two Justice Department lawyers argued -- in 1943 -- that the assertions in General DeWitt's report were false. At their behest, the Attorney General asked the FBI and the Federal Communications Commission to investigate DeWitt's charges. The agencies found no evidence that Japanese-Americans had been associated with any espionage activity or any illicit signaling. In fact, there was not a single documented act of espionage, sabotage, or fifth column activity committed by an American citizen of Japanese descent or by a resident Japanese alien on the West Coast. Nonetheless, the Government persisted in making its military necessity argument to the Supreme Court.³⁶

NARRATOR 2: Yasui's trial began the morning of June 12, 1942 and ended the same day. Judge Fee reserved decision. Yasui was taken to the Portland Assembly Center, where other Japanese had been detained pending relocation. Yasui remained at the Center until September 1942, when he was sent to the newly opened Minidoka Relocation Camp in Idaho. Minidoka was one of ten internment camps hastily constructed by the Government in seven states. Upon their arrival in the camps, the detainees found themselves imprisoned behind barbed wire fences, watched over by military police in guard towers. Minidoka was so new that there was no running water and no sewer system. The prisoners lived in rudimentary barracks in the barren desert amidst the sagebrush and rocks. Families of as many as nine people lived in single rooms measuring only 20 feet square, furnished only with Army cots and a pot-bellied stove.³⁷

³⁴ U.S. DEP'T OF WAR, FINAL REPORT, JAPANESE EVACUATION FROM THE WEST COAST (1943), available at <http://archive.org/details/japaneseevacuati00dewi>. In his book JUSTICE AT WAR, Peter Irons chronicles the various instances of deliberate government misconduct with respect to the report, including those mentioned below. See generally IRONS, *supra* note 2; see also Kenneth L. Karst, *Justice at War*, 62 TEX. L. REV. 1147, 1150-51 (1983) (book review).

³⁵ FINAL REPORT, *supra* note 34, at 8.

³⁶ See Mark Tushnet, *Defending Korematsu? Reflections on Civil Liberties In Wartime*, 2003 WIS. L. REV. 273, 288-89 (2003).

³⁷ See WILLIAM H. RENQUIST, ALL THE LAWS BUT ONE: CIVIL LIBERTIES IN WARTIME 184-211 (1998). Tule Lake in Newell, CA, was one of ten remote War Relocation Centers. Some 18,789 Japanese internees were housed there between May 1942 and March 1946. See Unit Camp Layout of Tule Lake Unit available at http://www.nps.gov/tule/planyourvisit/upload/Camp_Layout.pdf. "Each room was furnished with a single light bulb hung from the ceiling, a coal burning pot-bellied stove, and up to eight cots. One outdoor faucet provided water for each barrack. The recreation buildings were used for offices, stores, canteens, beauty parlors, barber shops, judo halls, and churches. *Id.* For more on the experiences of Japanese Americans in internment camps see LAWSON FUSAO INADA, ONLY WHAT WE COULD CARRY: THE JAPANESE AMERICAN INTERNMENT EXPERIENCE (Heyday Books 2000); ERIC L. MULLER & BILIL MANBO, COLORS OF CONFINEMENT: RARE KODACHROME PHOTOGRAPHS OF JAPANESE AMERICAN INCARCERATION IN WORLD WAR II (Univ. of N.C. Press 2012); MICHU NISHIURA WEGLYN

(Footnote continued on next page)

THE SENTENCING PROCEEDING

NARRATOR 1: In November, some five months after the trial, Yasui was returned to Portland for Judge Fee to announce his decision. On November 16, 1942, Judge Fee ruled that the curfew order, as applied to American citizens of Japanese descent, was unconstitutional.³⁸ It was an empty victory, however, because Judge Fee then found that Yasui had renounced his American citizenship because he was a “propaganda agent” for Japan who chose “allegiance to the Emperor of Japan.”³⁹ Because the curfew order could be lawfully applied to aliens, and because Yasui had forfeited his American citizenship, Judge Fee declared him guilty.

On November 18, 1942, just two days later, Yasui was sentenced.

JUDGE FEE: Will the defendant please rise?

[YASUI stands, walks to center stage]

Mr. Yasui, is there anything you wish to say before sentence is pronounced?⁴⁰

YASUI: Your Honor -- if the Court please, I should like to say a few words. There is no intent to plead for leniency for myself or to request a mitigation of the punishment that is about to be inflicted upon me.

Despite the circumstances, I am compelled to pay tribute and give my unreserved respect to this honorable court for its clear-cut and courageous reaffirmation of the inviolability of the fundamental civil rights and liberties of an American citizen.

As an American citizen, it was for a clarification and the preservation of those rights that I undertook this case, confident that the American judiciary would zealously defend those rights, war or no war, to preserve the fundamental democratic doctrines of our nation and to perpetuate the eternal truths of America.

(Footnote continued from previous page)

AND JAMES A. MICHENER, *YEARS OF INFAMY: THE UNTOLD STORY OF AMERICA'S CONCENTRATION CAMPS* (2008); UNFINISHED BUSINESS, *supra* note 2.

³⁸ *Yasui*, 48 F. Supp. at 53-54 (“While in ordinary times such persons are entitled to the ‘equal protection of the laws,’ when their country is at war with the United States, Congress or the President may intern, take into custody, restrain and control all enemy aliens within the territorial limits of the United States, and neither are restrained by any constitutional guarantees from such action. . . The only question now for the court to determine is as to whether Yasui, the defendant, is a citizen or an enemy alien.”).

³⁹ *Id.* at 55.

⁴⁰ Hon. Kerry S. Hada and Andrew S. Hamano, *Five of the Greatest: Minoru Yasui*, 27 COLO. LAW., July 1998, at 9.

My confidence has been justified and I feel the greatest satisfaction and patriotic uplift in the decision of this honorable court, for it is full of significance for every American, be he humble or mighty.

I say that I am glad, regardless of the personal consequences to me, because I believe in the future and in the ultimate destiny of America. . . .

I have lived, believed, worked and aspired as an American. With due respect to this honorable court, in all good conscience, I can say that I have never, and will never, voluntarily relinquish my American citizenship.

The decision of this honorable court to the contrary notwithstanding, I am an American citizen, who is not only proud of that fact, but who is willing to defend that right.

For I would a thousand times prefer to die on a battlefield as an American soldier in defense of freedom and democracy, for the principles which I believe, rather than to live in relative comfort as an interned alien Jap.

The treacherous attack on Pearl Harbor, the bombing of Manila, the aggressor policies of the war lords of Japan are just as reprehensible to me as to any American citizen.

If America were invaded today, I and 70,000 other loyal American citizens of Japanese ancestry would be willing, eager, to lay down our lives in the streets, down in the gutters, to defend our homes, our country, and our liberties!

[YASUI remains center stage]

NARRATOR 2: Unmoved, Judge Fee imposed the maximum sentence permitted by law: a fine of \$5,000 and one year in prison.

Yasui was placed in solitary confinement in a small, windowless cell for the next nine months. He would later recount his ordeal:

YASUI:⁴¹ At first the guards would not let me out long enough to take a bath or to get a haircut or a shave. At the end of several months I was stinking dirty. My hair was growing long and shaggy, unkempt and tangled. My facial hair was growing in all directions, untrimmed. And my nails were growing so long they began to curl over themselves, both on my hands and feet. It was not until after Christmas that I was given permission to take a bathe and get a haircut and shave, and that seemed like such a luxury then.

[ALL EXIT stage; FOUR SUPREME COURT JUSTICES take center stage, bringing chairs, sitting in the order they speak]

⁴¹ TATEISHI, *supra* note 2, at 82.

THE HIRABAYASHI DECISION

NARRATOR 1: The Ninth Circuit certified the Yasui case directly to the Supreme Court. On June 21, 1943, the Supreme Court reversed Judge Fee with respect to both his conclusions.⁴² It held that Judge Fee had erred in finding that Yasui had renounced his American citizenship. But it also held that Judge Fee had erred in declaring the curfew order unconstitutional as applied to citizens. In other words, the Court ruled that the application of the curfew order to American citizens of Japanese descent was lawful. Although Yasui's status as an American citizen was restored, his conviction was upheld.

The same day that it decided *Yasui*, the Supreme Court decided *Hirabayashi*.⁴³ The Court accepted the Government's "military necessity" argument and even echoed some of the themes pursued by the Government and Judge Fee at the *Yasui* trial.⁴⁴ In his opinion for the majority in *Hirabayashi*, Chief Justice Stone wrote:⁴⁵

CHIEF JUSTICE STONE: In the critical days of March 1942, the danger to our war production by sabotage and espionage [was] obvious. . . . Espionage by persons in sympathy with the Japanese Government had been found to have been particularly effective in the surprise attack on Pearl Harbor. At a time of threatened Japanese attack upon this country, the nature of our inhabitants' attachments to the Japanese enemy was consequently a matter of grave concern.

There is support for the view that social, economic and political conditions which have prevailed since the close of the last century, when the Japanese began to come to this country in substantial numbers, have intensified their solidarity and have in large measure prevented their assimilation as an integral part of the white population. In addition, large numbers of children of Japanese parentage are sent to Japanese language schools outside the regular hours of public schools. Some of these schools are generally believed to be sources of Japanese nationalistic propaganda, cultivating allegiance to Japan

We cannot reject as unfounded the judgment of the military authorities and of Congress that there were disloyal members of that population, whose number and strength could not be precisely and quickly ascertained. We cannot say that the war-making branches of the Government did not have ground for believing that in a critical hour such persons could not readily be isolated and separately dealt with, and constituted a menace to the national defense and safety

⁴² *Yasui v. United States*, 320 U.S. 115 (1943). The Court remanded the case to the district court for resentencing, where the sentence was reduced to 15 days imprisonment. See *United States v. Yasui*, 51 F. Supp. 234 (D. Or. 1943); *Yasui v. United States*, 772 F.2d 1496, 1498 (9th Cir. 1985). By then, of course, Yasui had been in prison already for more than nine months.

⁴³ See *Hirabayashi*, 320 U.S. 81.

⁴⁴ See Susan Kiyomi Serrano & Dale Minami, *Korematsu v. United States: A "Constant Caution" in a Time of Crisis*, 10 ASIAN L.J. 37, 41 (2003) (noting that in the internment cases, the Supreme Court essentially "deferred entirely to the government's falsified assertions of 'military necessity' by adopting the military's sweeping conclusions about disloyal Japanese Americans").

⁴⁵ The following is derived from *Hirabayashi*, 320 U.S. at 96-101.

The adoption by Government, in the crisis of war and of threatened invasion, of measures for the public safety, based upon the recognition of facts and circumstances which indicate that a group of one national extraction may menace that safety more than others, is not wholly beyond the limits of the Constitution

THE KOREMATSU DECISION

NARRATOR 2: A year and a half later, on December 18, 1944, the Supreme Court rejected Fred Korematsu's challenge to the military order excluding him from the West Coast.⁴⁶ The six-member majority, which included Felix Frankfurter, William O. Douglas, and Hugo Black, again relied on the Government's military necessity argument. Justice Black wrote the majority decision:

JUSTICE BLACK:⁴⁷ We uphold the exclusion order In doing so, we are not unmindful of the hardships imposed by it upon a large group of American citizens. But hardships are a 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

Korematsu was not excluded from the Military Area because of hostility to him or his race. He was excluded because we are at war with the Japanese Empire, because the properly constituted military authorities feared an invasion of our West Coast and felt constrained to take proper security measures, because they decided 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 that.

NARRATOR 1: Three justices wrote dissenting opinions, including Justices Murphy and Jackson:

JUSTICE MURPHY:⁴⁸ The exclusion of "all persons of Japanese ancestry, both alien and non-alien," from the Pacific Coast area on a plea of military necessity in the absence of martial law ought not to be approved. Such exclusion goes over "the very brink of constitutional power" and falls into the ugly abyss of racism

⁴⁶ See *Korematsu*, 323 U.S. 214. The Supreme Court has never overruled *Korematsu*. Chief Justice Rehnquist has expressed his views on the internment of Japanese-Americans and the *Korematsu* decision in several essays. See WILLIAM H. REHNQUIST, ALL THE LAWS BUT ONE: CIVIL LIBERTIES IN WARTIME 203-09, 211 (1998) (arguing that judicial review is inappropriate to determine "military necessity" and that there was a real fear of Japanese attack on West Coast); William H. Rehnquist, *When the Laws Were Silent*, AM. HERITAGE MAG., Oct. 1998, available at <http://www.americanheritage.com/content/when-laws-were-silent>. For a criticism of this piece, see Alfred C. Yen, *Praising with Faint Damnation: The Troubling Rehabilitation of Korematsu*, 40 B.C. L. REV. 1, 2 (1998).

⁴⁷ The excerpted portions of Justice Black's opinion are derived from *Korematsu*, 323 U.S. at 219, 223.

⁴⁸ The excerpted portions of Justice Murphy's dissent are derived from *id.* at 233, 242 (Murphy, J., dissenting).

I dissent Racial discrimination in any form and in any degree has no justifiable part whatever in our democratic way of life. It is unattractive in any setting but it is utterly revolting among a free people who have embraced the principles set forth in the Constitution of the United States.

JUSTICE JACKSON:⁴⁹ Korematsu was born on our soil, of parents born in Japan. The Constitution makes him a citizen of the United States by nativity and a citizen of California by residence. No claim is made that he is not loyal to this country. . . . Korematsu, however, has been convicted of an act not commonly a crime. It consists merely of being present in the state whereof he is a citizen, near the place where he was born, and where all his life he has lived. . . .

A citizen's presence in the locality . . . was made a crime only if his parents were of Japanese birth. Had Korematsu been one of four -- the others being, say, a German alien enemy, an Italian alien enemy, and a citizen of American-born ancestors, convicted of treason but out on parole -- only Korematsu's presence would have violated the order. The difference between their innocence and his crime would result, not from anything he did, said, or thought, different than they, but only in that he was born of different racial stock.

Now, if any fundamental assumption underlies our system, it is that guilt is personal and not inheritable. . . . But here is an attempt to make an otherwise innocent act a crime merely because this prisoner is the son of parents as to whom he had no choice, and belongs to a race from which there is no way to resign. . . .

I would reverse the judgment . . .

[FOUR JUSTICES exit stage]

EPILOGUE⁵⁰

NARRATOR 2: Yasui was released from Minidoka in 1944. After the war, he moved to Denver, Colorado, where he practiced law and worked in civil rights. In 1946, he married True Shibata.

NARRATOR 1: [taking center stage] Yasui's conviction stood for more than forty years. In 1984, the federal court in Oregon granted Yasui's petition for a writ of *coram nobis*, vacating the conviction.⁵¹ Yasui had also asked for a declaration that the Government had engaged in

⁴⁹ The excerpted portions of Justice Jackson's dissent are derived from *id.* at 242, 248 (Jackson, J., dissenting).

⁵⁰ The facts in the Epilogue are drawn primarily from IRONS, *supra* note 2, at 368-76; *Minoru Yasui Biography*, OR. HIST. PROJECT, <http://www.ohs.org/the-oregon-history-project/biographies/Minoru-Yasui.cfm> (last visited Sept. 5, 2012).

⁵¹ See *Yasui v. United States*, 772 F.2d at 1498 (summarizing the lower court proceedings). The obscure, common-law writ of error *coram nobis* allows a criminal defendant to challenge his conviction after his sentence has already been served. See *United States v. Morgan*, 346 U.S. 502 (1954) (upholding the availability of the writ). *Coram nobis*

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misconduct and that Public Proclamation No. 3 -- the curfew order -- was unconstitutional.⁵² The court denied this relief. Undeterred, Yasui appealed to the Ninth Circuit. He did not believe the vacating of the conviction was sufficient vindication.⁵³

On November 12, 1986, while his appeal was pending, Minoru Yasui passed away. The Ninth Circuit granted the Government's application to dismiss the appeal as moot.⁵⁴

Yasui's fight for justice had come to an end.

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reversals were also sought in the *Hirabayashi* and *Korematsu* cases; in both cases, the petition was ultimately granted. See *Hirabayashi v. United States*, 627 F. Supp. 1445 (W.D. Wa. 1986), *aff'd in part, rev'd in part, and remanded*, 828 F.2d 591 (9th Cir. 1987); *Korematsu v. United States*, 584 F. Supp. 1406 (N.D. Cal. 1984). See generally Kang, *supra* note 2 (discussing the significance of the *coram nobis* victories).

⁵² See *Yasui*, 772 F.2d at 1498.

⁵³ Yasui's petition for a writ of error *coram nobis* was part of a larger Japanese American "Redress Movement" in the early 1980s to obtain recognition by the United States government that the internment of Japanese Americans was unnecessary and unjust. The campaign resulted in a formal apology, reparations of \$20,000 to those living at the time of the Redress Bill's signing in 1987, and the establishment of a \$5 million educational trust fund. See Serrano & Minami, *supra* note 44.

⁵⁴ See Serrano & Minami, *supra* note 44, at 45.

**Heart Mountain: Conscience,
Loyalty, and the Constitution**

I. Introduction

[Ishikawa is sitting at center table between podiums, facing the audience. He finishes writing his letter, and sits back to read it.]

NARRATOR 1: It is March 20, 1944. Takeo Ishikawa is sitting alone at a desk, at the Heart Mountain Relocation Center in Wyoming. He has finished writing a letter to his Local Draft Board in Palo Alto, California.

ISHIKAWA: Dear Sir:

On March 5, 1944, I received my pre-induction physical notice stating that I was to report on the morning of March 8th to Powell, Wyoming. I did not report, not because I am trying to evade the draft, but because of my firm conviction that what the Government is doing and already has done is wrong, and that our status should be fully clarified prior to our induction in the Armed Forces.

I was born in the small town of Mountain View, California. I attended public school, where we were taught to believe in the Constitution of the United States and the Bill of Rights, and that these instruments would apply to the minority groups. This was the Land of the Free -- a Democracy -- and the laws governing this nation would apply to any individual, regardless of race, color or creed.

And then, on December 7, 1941, the so-called sneak attack on Pearl Harbor was perpetrated. We lowly individuals of Japanese descent were as unaware of any such plot to attack as were our American neighbors. Outraged by

the deed, many of us to show our sincerity and loyalty bought war bonds, joined Red Cross units and donated sums of money, became Blackout Wardens whenever allowed, and so forth. Many of the Nisei boys volunteered for the armed services but were rejected on account of our racial background. For us, life changed overnight and became a nightmare. Fear obsessed us. Our bank accounts and assets were frozen. A curfew was placed on us. . . . Our fathers were interned, rudely snatched away from their families. Finally, came our Evacuation Proclamation from the President and the utterance from General DeWitt that:

[General DeWitt pops up in place.]

GENERAL DeWITT: "A Jap is a Jap."

ISHIKAWA: WE WERE NOT ACCUSED OF ANY CRIME NOR CHARGED WITH ANY SEDITIOUS ACTS OR SABOTAGE; without any trial we were ordered to leave our homes. We were uprooted from everything we held dear and near to us. Our homes, friends, and fortune. . . .

On May 26, 1942, my aged mother, my sister, and I left Mountain View for the famed Santa Anita horsetracks. We were number 32013. That was our number and still is. We were no longer individuals in an upright society, but merely numbers -- the same as any convict. After three long months we were transferred here, to Heart Mountain.

In our present status, we are not free citizens. As a limited rights citizen, I protest my drafting into the selective service. I want to be a free citizen enjoying full citizenship status, enjoying all the rights and privileges of an American

citizen before I enter the military service. I sincerely hope for a better clarification and until such time I do not intend to report, but, if necessary, I will contest in the courts the legality and constitutionality of the Selective Service as it pertains to the Nisei.

* * *
Sincerely yours,
TAKEO ISHIKAWA

NARRATOR 2: Only a matter of months later, on the morning of May 15, 1944, Takeo Ishikawa stood before a federal judge and, with 62 other Japanese-American prisoners from the Heart Mountain concentration camp, pleaded not guilty to violations of the Selective Service Act of 1940 for failure to report for pre-induction physical examination. Our presentation today will tell the story of Mr. Ishikawa and the other draft resisters from Heart Mountain, based on records of the court proceedings and other contemporaneous documents. Mr. Ishikawa's letters were included in the record on appeal to the Tenth Circuit as generally reflective of the views and experiences of all the defendants.

[Ishikawa folds his letter and exits.]

II. The Context

NARRATOR 1: The Japanese attacked Pearl Harbor on December 7, 1941. In the next three days, the FBI arrested nearly 1300 Issei, first generation Japanese immigrants, in Hawaii and the Western states. These were the "fathers" described as "snatched away" in Ishikawa's letter. Under the law at the time, they could not be naturalized as U.S. citizens because of their race.

The children of the Issei – the Nisei -- had been born in this country. By virtue of the Fourteenth Amendment, they were U.S. citizens. While shocked by the arrest of their parents, the Nisei believed that they would be treated differently.

NARRATOR 2: They were mistaken. On February 19, 1942, President Roosevelt signed Executive Order 9066, authorizing military authorities to designate military areas from which "any or all persons" might be excluded. Shortly thereafter, General John DeWitt, commanding general of the Western Defense Command, issued Public Proclamation No. 4, forbidding any person of Japanese ancestry in parts of California, Oregon, Washington and Arizona to leave their areas without military permission. In his report recommending removal of all Japanese-Americans from these areas, he stated his views, views mirroring those of politicians and newspapers of the time. Here are General DeWitt, a politician, and a newspaper columnist:

**[DeWitt, a Politician, and Newspaper Columnist take front and center
in front of center table]**

DeWITT: The Japanese race is an enemy race. All members of that race are potential enemies. Even if Americanized, their undiluted racial strain makes their removal from the vital Pacific Coast absolutely necessary. The fact that no sabotage has yet taken place only makes it more likely that such action will be taken.

POLITICIAN: I join the elected representatives from the other Western states when I demand that all Japanese, whether citizens or not, be placed in inland concentration camps. Why, if an American-born Japanese is really patriotic, this is his opportunity . . . he can permit himself to be placed in a concentration camp.

COLUMNIST: Just to be clear for all my readers, we should just move them to the badlands. I hate the Japanese. And that goes for all of them.

[DeWitt, Politician, Newspaper Columnist walk off]

NARRATOR 1: By the end of March 1942, Japanese American families were being told to prepare for removal from the designated areas, and that they could bring with them only what they could carry. When they reported as ordered, they were given numbers and moved to so-called assembly centers, which included horse stables at racetracks. Some 120,000 people, nearly two-thirds of them U.S. citizens, spent the summer of 1942 in these centers, located mostly in California, as the federal government prepared ten concentration camps in more remote areas in other states. The governors of these states were asked for their input. Chase Clark, then governor of Idaho and later a federal judge, made his position clear.

[Clark takes front and center]

CLARK: I want to admit right on the start, that I am so prejudiced that my reasoning might be a little off, because I don't trust any of them. So they're not coming to Idaho unless certain conditions are met. And one of them is that any Japanese sent to Idaho must be placed under guard and confined in concentration camps for the safety of our people, our State, and the Japanese themselves.

[Clark walks off]

NARRATOR 2: The Japanese American families in the assembly centers were herded onto trains and shipped to the camps in the late summer and early fall of 1942. They went quietly, with many apparently adopting the attitude of the Japanese American Citizens League, the JACL, an organization created by Nisei in 1930 to advance the interests of Americans of Japanese descent. The JACL president, Saburo Kido, stated the group's position as follows:

[Kido takes front and center]

KIDO: We are going into exile as our duty to our country, because the President and the military commanders of this area have deemed it necessary. . . .

What greater love, what greater testimony of one's loyalty could any one ask than this: leave your homes, your business, and your friends in order that your country may better fight a war?

[Kido walks off]

III. The Draft

NARRATOR 1: Six months later, the JACL convened a conference to discuss cooperation with the War Relocation Authority. Delegates were selected by the JACL and granted furloughs from their camps. Mike Masaoka asked them to endorse the JACL's latest effort to prove Japanese American loyalty.

[Masaoka takes front and center]

MASAOKA: It was a proud time for us when this nation's first peacetime draft in 1940 called upon us to serve. 3500 Nisei were drafted in the first year. It was humiliating when, in the wake of Pearl Harbor, we were reclassified as aliens ineligible for the draft. We are being deprived of our biggest chance to prove our loyalty. Somewhere, on the field of battle, in a baptism of blood, we and our comrades must prove to all who question that we are ready and willing to die for the one country we know and pledge allegiance to.

[Masaoka walks off]

NARRATOR 2: The delegates passed a resolution asking the federal government to reclassify the Nisei as draft-eligible. The Office of War Information suggested instead a volunteer Nisei combat team based upon an individualized test of loyalty. Shortly thereafter, President Roosevelt announced his approval of the new all-Nisei unit, the 442nd Regimental Combat Team. Mike Masaoka, called to the Pentagon to receive the news, was disappointed, but

he volunteered to become the first member of the unit. The loyalty questionnaire that was distributed at the concentration camps, as well as this concept of a segregated combat unit, only added to the dismay of Japanese Americans who had been less than enthusiastic about the JACL resolution in the first place.

NARRATOR 1: Both the JACL and officials at the Pentagon continued to press for re-institution of the draft into integrated units. For the Pentagon, integration was a problematic issue in part because African Americans were only allowed to serve in segregated units. Finally, in December 1943, the War Department determined to reinstate the draft for Nisei into segregated combat units. On January 20, 1944, the War Department announced that the Nisei would be reclassified by their Selective Service Boards and called for induction if physically qualified.

IV. Resistance and Reaction

NARRATOR 2: The populations of the different camps reacted in different ways, some with violent outrage, while others sent large numbers of volunteers. At the Heart Mountain camp, located sixty miles east of Yellowstone National Park in northwest Wyoming, 55-year old Kiyoshi Okamoto started writing about the injustices of detention. This led to the creation of the Fair Play Committee, a collective effort by detainees at Heart Mountain to openly resist the draft. The FPC spread its message through bulletins and public meetings, which became increasingly popular, in part because of Okamoto's blunt and fearless style. The FPC carefully limited its membership to Japanese-American citizens who professed loyalty to the United States and were willing to serve in the military once their civil rights were restored.

NARRATOR 1: The FPC's first public meeting on February 8, 1944 was attended by 60 Nisei. More meetings followed. As the FPC gained momentum and support, its voice became

louder and more direct. One of the newspapers that supported the FPC was the *Rocky Shimo*, a newspaper based out of Denver, Colorado, that served the Japanese American community and was widely read at Heart Mountain. Jimmie Omura, the *Shimo*'s English language editor, printed news that reported favorably on the FPC's activities and editorials that questioned the lawfulness and propriety of the draft.

[FPC Rep. takes front and center]

On March 1, 1944 the FPC leaders distributed a bulletin that described their attitude toward the draft:

FPC REPRESENTATIVE: The FPC believes we have a right to ask that the discriminatory features in regards to this selective service be abolished, our status be clarified, and our rights be fully restored before we are drafted.

NARRATOR 1: A few days later, the group went further:

FPC REPRESENTATIVE: We, the members of the FPC are not afraid to go to war – we are not afraid to risk our lives for our country. We would gladly sacrifice our lives to protect and uphold the principles and ideals of our country as set forth in the Constitution and the Bill of Rights But without any hearings, without due process of law, without any charges filed against us, without any evidence of wrongdoing on our part, one hundred and ten thousand innocent people were kicked out of their homes, literally uprooted from where they have lived for the greater part of their life, and herded like dangerous criminals into concentration

camps with barbed wire fences and military police guarding it,
AND THEN, WITHOUT RECTIFICATION OF THE
INJUSTICES COMMITTED AGAINST US AND WITHOUT
RESTORATION OF OUR RIGHTS AS GUARANTEED BY
THE CONSTITUTION, WE ARE ORDERED TO JOIN THE
ARMY THRU DISCRIMINATORY PROCEDURES INTO A
SEGREGATED COMBAT UNIT!

WE, THE MEMBERS OF THE FAIR PLAY COMMITTEE, *HEREBY
REFUSE TO GO TO THE PHYSICAL EXAMINATION OR TO THE
INDUCTION IF OR WHEN WE ARE CALLED IN ORDER TO CONTEST THE
ISSUE.*

[FPC Rep. walks off]

NARRATOR 2: Within days, five Nisei refused to get on the bus for their pre-induction physicals, and two days later, seven more. Alarmed, camp officials reached out to the Department of Justice and the War Relocation Authority. They held “leave clearance hearings” for two of the FPC’s leaders even though neither had applied for leave, and ordered them transferred to another camp. U.S. Marshalls arrested and jailed the first twelve Nisei who had refused to get on the bus for their pre-induction physicals; nevertheless, more young men refused to report. By the end of March 1944, 41 were in Wyoming county jails and Jimmie Omura, the Denver newspaperman, was forced to resign. His newspaper was told that it would be closed unless Omura was removed as English language editor.

V. The Trials

NARRATOR 1: Two indictments were filed with respect to the Heart Mountain draft resisters, resulting in two trials. The first was *United States v. Fujii*, which would become known as the Mass Trial, as 63 draft resisters from Heart Mountain would be tried together on the charge of evading the draft. The second was *United States v. Okamoto*, which would become known as the Conspiracy Trial, as seven of the FPC leaders at Heart Mountain would be tried together for conspiracy to counsel, aid, and abet the Heart Mountain draft resisters. The Government charged an eighth defendant with conspiracy -- Jimmie Omura. He had never met any of the resisters, but was indicted solely on the basis of his newspaper columns.

A. The Heart Mountain Mass Trial June 12-17, 1944

NARRATOR 2: The Mass Trial commenced on Monday, June 12, 1944. The government was represented by Carl Sackett, the United States Attorney for the District of Wyoming.

[Sackett enters and stands by counsel table.] The FPC hired Samuel Menin, a prominent civil rights lawyer from Denver, to represent all 63 defendants. **[Menin enters and stands by opposite counsel table.]**

One of Menin's first decisions was to waive the defendants' right to a jury, a sensible tactic given the jury pool in Cheyenne, Wyoming. This meant, however, that the fate of the 63 men was entirely in the hands of Judge T. Blake Kennedy, who had been the sole federal judge in the District of Wyoming for over 20 years. **[Kennedy enters. As he sits at center table, counsel sit.]** Judge Kennedy's view of the defendants was apparent from day one, when he addressed the 63 defendants in open court as:

JUDGE KENNEDY: "You Jap Boys."

NARRATOR 1: The government's strategy was straightforward. It only had to prove that the defendants received notices but failed to report for a pre-induction physical exam, facts that were not contested. In contrast, Menin sought to paint a broader picture of injustice and unfairness, by eliciting testimony as to the defendants' loyalty to the United States, their loss of freedom, and their willingness to serve in the army once their rights had been restored. Menin also tried other tactics, such as having the defendants give themselves similar haircuts -- crew cuts -- and then arguing that the charges should be dismissed because the agents could not tell the defendants apart. Judge Kennedy quickly rejected this argument, ruling that the defendants had identified themselves when they were arrested and admitting in evidence their fingerprint cards as proof of identity.

NARRATOR 2: The government called to the stand the clerk of the local draft board, who identified the paper work proving that the defendants refused to report for their physicals, and also called the F.B.I. agents who had interviewed the defendants. One of them was F.B.I Agent Harry McMillen.

[McMillen enters and sits in witness chair by judge's table. Kuromiya enters and sits next to his lawyer, Menin.]

Direct Examination of FBI Agent Harry McMillen (by Carl Sackett):

Q: Please describe your investigation in the case regarding Yoshito Kuromiya, including the details of any interview you had with the defendant.

A: I interviewed the defendant, on April 6, 1944 at the County Court House in Cody, Wyoming.

Q: State what you advised him, and so forth.

A: I asked him first to give me his name and his address. I gave the defendant my name, advising him that I was with the FBI and that I wanted to talk to him. I told

him the interview was to be used in court proceedings and I further advised him it was his privilege to not say anything concerning this matter, and I asked him if he had any objections to an interview in that regard, and he said "No" and we went on with the interview. He gave his age as twenty—

Q: Had he been arraigned?

A: Yes, sir. He gave his age as twenty, being born on April 23rd, 1923 at Sierra Madre, California He produced his registration card . . . and gave his Local Board as No. 192, at Pomona, California He came to the Heart Mountain Relocation Center in August of 1942, and there he received first a 4-C classification card from his local board, then a 1-A classification card.

He said he received his pre-induction physical examination notice. He advised me that he did not report as ordered.

I then asked him to give briefly his reasons for not reporting for his pre-induction physical examination, and he replied --

[Flashback: Kuromiya stands up and faces the audience. No reaction from those onstage.]

KUROMIYA: It was not fair. The Government treated me as if I were disloyal, without even questioning me or asking me anything about it. The way I was treated -- it is not constitutional. If I did not protest, I would be just as responsible as those who made the decision. A citizen who will accept bad government without protest is not a good citizen. I would willingly go to the army if these matters were cleared up to my satisfaction.

[Kuromiya sits down]

Cross-examination of FBI Agent Harry McMillen:

NARRATOR 1: Menin cross-examined.

Q: Now, in your interview with this defendant Kuromiya, . . . wasn't he courteous to you?

A: That is correct.

Q: And his entire attitude towards you was that of desiring to be loyal to the government, wasn't it?

A: That's right. Mr. Menin, all of these gentlemen whom I interviewed were courteous and treated me very nicely, as I treated them, and at no time was there any act, or did they say anything against the United States or indicate any disloyal attitude.

Q: At no time, did they indicate any desire to go back to Japan?

A: That's right.

Q: Throughout the entire interview with this particular defendant, he indicated a desire to fight for this country if he were restored his rights as a citizen?

A: I presume so. There was not one of them who did not.

[McMillen leaves the stand, Todd enters and sits]

NARRATOR 2: The government also called to the stand Douglas Todd, the assistant project director at Heart Mountain.

Direct Examination of Assistant Director Todd [by Sackett]:

Q: Was transportation available for these 63 defendants to be taken to the Powell Board?

A: It was.

Q: Was there any restriction in the Center prohibiting any of these 63 defendants from going to the Powell Board and reporting in accordance with the notices received?

A: No, there was no restriction.

NARRATOR 1: On cross, Todd resisted the notion that the defendants' rights were curtailed at Heart Mountain.

Cross Examination of Assistant Director Todd [by Menin]:

Q: Is the Heart Mountain project patrolled by military police?

A: No, I wouldn't say that it was.

Q: Is it guarded by military police?

A: There are military police there, yes.

Q: And they are there for the purpose of guarding the project, are they not?

A: Their function has to do with the Army, and I am not able to say.

Q: Now, have any of the persons who are confined at Heart Mountain been sent there for violation of the law?

A: I don't know.

Q: Do you know why they were sent there?

A: No, I do not.

Q: But do you know that those who are there are restrained of their liberties within the confines of the area?

A: I don't think they are restrained of their liberties. . . . They are not restrained in any sense.

- Q: What would happen to an evacuee if he would attempt to leave the Center without obtaining a permit?
- A: That Relocation Center is a military reservation . . . The Government is feeding the people and housing them and they would naturally be expected to comply with such rules and regulations as were set up
- Q: Well, suppose a person is living at the Heart Mountain Center, he is supposed to confine his movements within the barbed wire enclosures, is that correct?
- A: No, that is not correct.
- Q: How would it be possible for him to leave the barbed wire enclosures?
- A: The barbed wire enclosure is only a small part of the project, and the people who live there have freedom of the area outside of the barbed wire, which is some twenty thousand odd acres.
- Q: But they must be within the confines of these limits, is that right?
- A: That is right, without a pass.

Re-direct examination of AD Todd [by Sackett]:

- Q: Do you know whether any of these 63 men were ever denied the right to leave camp, to work, or to be relocated in any place?
- A: I have no knowledge of them being denied any such right. Our main job up there is to get them out of that Center and relocated.
- Q: Where are they permitted to go in the United States if they want to relocate themselves out of that Center?
- A: The Western Defense Zone includes part of the States of Washington, Oregon, California and Arizona. They are excluded from there, of course, in the

evacuation, and they have not been permitted to return there except a very few people.

Q: Is a Japanese-American citizen required to have a travel permit outside of the Center?

A: To leave the Center he is required to have what we call the indefinite pass.

Q: Any Japanese-American citizen who obtains a pass to leave the Center, as I understand it, may travel without a travel permit – in any of the areas which are not in the war zones mentioned?

A: That is correct.

Q: The same as any other citizen?

A: That is correct.

[Todd exits]

NARRATOR 2: The defendants did not call any witnesses and rested at the close of the government's case. In his summation, Menin argued:

MENIN: Placing American citizens in relocation centers was something Hitler would do.

NARRATOR 1: Sackett responded with outrage and in a very personal manner.

SACKETT: The defense counsel has compared the system of relocation to something Hitler would do. I resent that. These men and their families have been housed, clothed, fed and schooled by the federal government, perhaps better than the court when he was a young man and, I know, better than I was. When the Jews were kicked out of Germany they were left to shift for themselves, but our government cared for these men and their relatives.

The defendants are using my money, your money, everybody's money by having this trial and saying that they will not fight for this country. They want freedom, they say; do they want freedom so that they can go out and signal the Japanese submarines? They all admitted they were loyal American citizens; is that a cloak back of which to hide, or an excuse to get away from the draft?

NARRATOR 2: On Monday, June 26, 1944, after six days of trial, Judge Kennedy announced his decision. He addressed the defendants' claim of discrimination, citing the Supreme Court's decision in *Hirabayashi v. United States*, decided in 1943.

JUDGE KENNEDY: The defendants assert that as American citizens by birth, they have been discriminated against by various acts of the Government Defendants assert that they should not be reclassified for service in the war at least until such time as their "status of citizenship has been clarified."

That the regulations promulgated by Congress and the President are legal has been definitely determined in *Hirabayashi v. United States*. There, the matter litigated was the constitutionality of the establishment of a "curfew law" in which all Japanese-American citizens were required to report and be restricted to their residence during certain hours of the day. The Supreme Court based its conclusion on the exigencies of war between the United States and the Japanese nation, calling attention to the "sneak" attack upon Pearl Harbor with an observation that Japanese diplomats were at the same time negotiating with the State Department to settle differences between the two countries. The Supreme Court also noted that the Japanese government recognizes a dual citizenship and maintains that children of Japanese nationals are citizens of the Japanese Empire,

wherever their place of birth, even among persons of Japanese ancestry born in this country, and therefore are citizens of Japan; that there might be logic in the conclusion that in a case of war, these individuals would hold their attachment to Japan and in a critical hour these could not be effectively segregated so as to relieve a menace to the national defense and safety.

NARRATOR 1: The Supreme Court had not yet decided *Korematsu*. Judge Kennedy foresaw that such a constitutional challenge to the removal, relocation, and confinement of Japanese American citizens would be defeated.

JUDGE KENNEDY: It would seem that the same logic which led to the conclusion that the curfew law did not violate the constitutional rights of citizens of Japanese extraction would justify a like conclusion in regard to removal and relocation. . . .

The discrimination exercised by the Government on account of defendants' Japanese ancestry was legitimate, justified and legal, and within the power of Congress and the President in the war emergency. Defendants' assertion that they did not desire to report until their citizenship had been clarified is without merit as to legal basis. It is evident that what they asserted in the matter of the clarification of their citizenship was in fact accomplished by the effect of the order which they disobeyed. When they were placed in 1-A and ordered to report for pre-induction physical examination, their pure American citizenship was established beyond question.

NARRATOR 2: Indeed, as Professor Eric Muller has noted, the defendants were “free to die for their country,” but not free to enjoy the same rights and privileges as other citizens.

Judge Kennedy concluded as follows:

JUDGE KENNEDY: Personally, this Court feels that the defendants have made a serious mistake in arriving at their conclusions which brought about these criminal prosecutions. If they are truly loyal American citizens, they should, at least when they have become recognized as such, embrace the opportunity to discharge the duties of citizens by offering themselves in the cause of our national defense. The finding and verdict of the Court is that each of the defendants is guilty as charged in the indictment. It is the sentence and judgment of the Court that you and each of you shall be committed to the custody of the Attorney General for confinement in such institution as he may select for a period of three years. The defendants are all committed to the custody of the United States Marshal.

[All exit.]

B. The Conspiracy Trial

NARRATOR 1: The government prosecuted the seven leaders of the Heart Mountain Fair Play Committee as well as Jimmie Omura for conspiring to counsel, aid, and abet the draft resisters. Judge Eugene Rice, visiting from the U.S. District Court for the Eastern District of Oklahoma, presided over the trial. [Judge Rice enters and sits at center table.] A.L. Wirin, a civil rights attorney from Los Angeles, represented the FPC leaders. [Wirin enters and sits at counsel table.] Sidney Jacobs, a Denver attorney, represented Omura. The U.S. Attorney for the District of Wyoming, Carl Sackett, and Assistant U.S. Attorney John Pickett appeared for the government. [Sackett and Pickett enter and sit at opposite counsel table.]

NARRATOR 2: Defendants submitted two motions to quash the indictment. The first challenged the composition of the Grand Jury on the grounds there were no Japanese grand

jurors and the second argued that the defendants were being detained in violation of their right to due process of law. The Court held a hearing on both motions on August 5, 1944.

WIRIN: Not even one American of Japanese descent served on the Grand Jury, despite the fact that nearly 5 percent of Wyoming's population is now Japanese, because of Heart Mountain. Defendants' constitutional rights were therefore violated, and we move to quash the indictment.

JUDGE RICE: What do you have to say about this, Mr. Sackett, can you stipulate to that?

SACKETT: No Japanese -- or American of Japanese descent -- was on the Grand Jury to my knowledge at this time, that's a fact. But, certainly it is not to be presumed that this Court exercised any unfairness in drawing a Grand Jury among citizens of the United States.

WIRIN: Will you stipulate that there has never been, in this District, an American of Japanese ancestry on the jury?

SACKETT: No, I don't know, so I wouldn't. I have known Japanese to have been on trial juries -- I have tried cases where Japanese were on the jury. On this particular Grand Jury no person of Japanese descent was drawn, unless the resemblance was slight and I didn't observe it. But that doesn't bind the Court.

WIRIN: Your Honor, we had some difficulty in reaching a stipulation so it apparently is necessary that we introduce evidence on this question. I would like to call the Clerk of the Court, Charles J. Ohnhaus.

JUDGE RICE: So be it.

[Ohnhaus enters and takes the stand.]

DIRECT EXAMINATION OF CHARLES OHNHAUS [By Wirin]

- Q. You are the Clerk of the Court, Sir?
- A. Yes.
- Q. How long have you been the Clerk?
- A. Since November 1909. Before that, I was the Deputy Clerk since May 1901.
- Q. During the time in which you have acted as either Clerk or Deputy Clerk, to your knowledge, has any Japanese person or American of Japanese ancestry been a member of any Grand Jury?
- A. I wouldn't want to say definitely without searching the records. I have no recollection of any American of Japanese descent ever sitting on a Grand Jury.

CROSS EXAMINATION [by Pickett]

- Q. Mr. Ohnhaus, has the Court ever adopted any rules prohibiting an American of Japanese ancestry from sitting on a Grand Jury?
- A. No.
- Q. Do you know whether or not there were any names of persons of Japanese ancestry in the jury box from which the names were drawn?
- A. I couldn't say definitely about that either.
- Q. Would you know whether the number of citizens of Japanese descent in the State of Wyoming is large or small?
- A. My opinion is that it is very small.

JUDGE RICE: Prior to the time that these Japanese were located in the State of Wyoming at this place Heart Mountain, how many Japanese were there in the City of Cheyenne?

A. You mean American?

JUDGE RICE: Born in the United States.

A. I couldn't definitely say -- a very small number.

JUDGE RICE: Has there been any intentional omission of citizens qualified as jurors of Japanese descent from the jury panel?

A. There has not.

JUDGE RICE: The witness is excused. **[Ohnhaus exits.]** I am going to overrule the motion to quash at this time. These Japanese who have been brought into the State of Wyoming, probably against their will, are probably not qualified to act as grand jurors because they are not residents of the State. They are temporary residents and prior to that time I don't think there was anything that would require that a Japanese person be on the Grand Jury or on the jury panel. No substantial showing has been made that there were many Japanese in the State of Wyoming or that there was any system of exclusion of that particular group of jurors from the jury box by reason of their nationality.

On the motion to quash on the ground that defendants were -- at the time of the indictment, and are still -- deprived of their liberty without due process of law, have you reached an agreement on the facts?

PICKETT: No, Your Honor.

JUDGE RICE: If you cannot agree -- Mr. Wirin, you may put on your evidence.

WIRIN: The defense calls defendant Frank Seishi Emi to the stand.

[Emi enters and takes the stand.]

NARRATOR 1: Frank Emi was one of the leaders of the FPC. He had been a successful grocer in Los Angeles until he was detained and relocated to Heart Mountain. At Heart Mountain he drove a truck and made tofu for other detainees.

DIRECT EXAMINATION OF FRANK EMI (by Wirin)

Q. What is your name?

A. Frank Emi.

Q. You are now in the Wyoming County Jail?

A. Yes, Sir.

Q. Where were you before you came to the County Jail?

A. At Heart Mountain.

Q. For how long?

A. Since September of 1942.

Q. And, very briefly, how did you arrive and why did you go?

A. Prior to that we were at the Pomona Assembly Center where we were evacuated from our homes.

Q. Where was your home?

A. Los Angeles.

Q. You were evacuated under military order?

A. Yes.

Q. Sometime this year did you attempt to walk out of the Relocation Center?

A. Yes. On March 29, 1944.

Q. And what happened?

A. When the draft was instituted and I learned I was eligible for it, I figured I was now recognized as an American citizen, so I walked out of the Center with Horino and Tamesa. An armed military police officer stopped me and said he would arrest me if I walked out without a pass. I asked him -- if I was an American citizen, didn't I have the right to freedom of movement? He said "no." He said he had orders to arrest me. I said, "suppose I resisted," and he said he would have to use force, which I thought implied using his gun. After I was arrested, I was put in the M.P. Guard House and the guard again told me if I tried to get away I would be shot.

CROSS EXAMINATION – By Pickett

Q. Mr. Emi, Heart Mountain is a rather large establishment, isn't it?

A. Yes.

Q. And there is nothing around it but an ordinary barbed wire fence, right?

A. There is a barbed wire fence and guard towers.

Q. You can get outside through the gates all around --

A. No.

Q. Isn't there a rather large portion of land that is farmed outside of the fences?

A. I think so.

Q. Can't people in Heart Mountain go out there to work and raise their crops?

A. Only with special passes.

Q. Anybody who wanted to work had a pass, right?

A. No.

Q. Have you ever been able to leave Heart Mountain to work?

A. I believe one time a farmer requested my services during a beet harvest and I was given a special pass.

Q. How often did you leave to work?

A. I have never been out of there except that one time on a special pass.

Q. Because of your conduct?

A. They have a stop list there.

Q. Were you on the stop list because of your conduct?

A. I have never broken any law except when I walked out of there.

Q. Were you ever refused a permit to get out of there and go to work?

A. Yes.

Q. Do you know of anyone else who was refused a pass to leave and go to work, except these defendants?

A. There were quite a few.

[Emi exits.]

NARRATOR 2: Judge Rice denied defendants' second motion to quash as well, refusing to find the detention unconstitutional. The case proceeded to trial on October 23, 1944. The defense called Minoru Tamesa, an oyster farmer and millworker from the Seattle area, who was one of the leaders of the FPC.

[Tamesa takes the stand.]

DIRECT EXAMINATION of Min Tamesa (by Wirin)

Q. Mr. Tamesa, have you ever complied with orders from your local draft board?

A. Yes.

Q. When?

A. Before Pearl Harbor. I was born and raised in a typical American community on the outskirts of Seattle, Washington. I grew up with some nice neighbors. When I was living there, I received a draft notice to report for a physical examination -- and I did. To protect the security and happiness and freedom of my life there, I was willing to serve my country.

Q. Have you ever not complied with draft orders?

A. Yes.

Q. When?

A. After Pearl Harbor. We were evacuated from Seattle to a concentration camp. I received the order from Heart Mountain. It seemed to me that the selective service didn't mean for me to fight to protect the security and freedom of a barracks room in a concentration camp, or to go to war while my family was still imprisoned in the camp. So I didn't report.

Q. Mr. Tamesa, are you a member and leader of the Fair Play Committee, the FPC?

A. Yes.

Q. What is the mission of the FPC?

A. To air grievances, improve the situation of those interned, and test the constitutionality of the evacuation.

Q. What do you mean by that -- to test the constitutionality of the evacuation?

A. We wanted to create a test case for the courts. We wanted the government to clarify our citizenship rights before we joined the military. We thought it was unconstitutional for the government to imprison us and strip us of our rights while

simultaneously drafting us to serve and fight for this country. We were willing to serve as soon as our rights were restored.

CROSS EXAMINATION (by Sackett)

Q. Mr. Tamesa, does this document look familiar to you?

A. Yes, it is one of the FPC's publications.

Q. Could you read the highlighted text?

A. It says: We, Members of the Fair Play Committee, hereby refuse to go to the physical examination or to the induction if or when we are called in order to contest the issue. We hope that all persons whose ideals and interests are with us do all they can to help us.

Q. So, Mr. Tamesa, did you and the leadership of the FPC encourage others at Heart Mountain to evade the draft?

A. Yes, but --

Q. Nothing further.

[Tamesa exits.]

NARRATOR 1: Following closing arguments, counsel presented their jury instructions to the Court. The Second Circuit had recently upheld a trial court's determination that the desire to test the legality of laws discriminating against a pro-German organization was not a defense to charges of draft evasion. The *Keegan* case was set for oral argument before the Supreme Court of the United States as Wirin prepared his jury instructions. Looking ahead to the appeal, and hoping that the Supreme Court would reverse the Second Circuit, Wirin requested a "test case" jury instruction.

WIRIN: We request that the Court instruct the jury to determine whether the defendants acted in good faith or bad faith, and to consider the sincerity or insincerity of the defendants' belief that the citizenship status and the rights of American citizens of Japanese descent -- evacuated from the Pacific Coast and detained at the Heart Mountain Relocation Center -- could be lawfully determined or clarified by the Courts, upon prosecution for their refusal to comply with the draft. If the jury finds that defendants sincerely and in good faith entered such a belief, they should acquit.

JUDGE RICE: Any objections?

SACKETT: The government objects. The test case defense is without merit. That said, the government would not object if the Court instructed the jury to consider all the evidence in the case, including any evidence as to the test case, which might indicate that the defendants did not in fact knowingly conspire together to counsel evasion.

JUDGE RICE: Both proposed jury instructions are denied. Instead I will instruct the jury as follows:

A desire to have a test case does not excuse failure to comply with the selective training and service act. It is a violation of the law for anyone to counsel another to disobey the draft law or to assist or abet one to evade the draft law. And I charge you that it is a violation of the law, even though it is contended that the purpose was to create a case for the testing of the constitutionality of the law.

NARRATOR 2: On November 1, 1944, Judge Rice submitted the case to the jury. After a short deliberation, the jury returned a verdict convicting all seven leaders of the FPC of conspiracy. Jimmie Omura -- the newspaper columnist -- was acquitted.

The next day, Judge Rice sentenced the four defendants he saw as the most culpable to four years' imprisonment. He sentenced the others, whom he concluded played lesser roles, to two years' imprisonment. All seven were sent to the maximum-security federal prison at Leavenworth, Kansas.

[All exit.]

C. Trials of Resisters from Other Camps

NARRATOR 1: The draft resistance movement at Heart Mountain has been described by scholars as the most articulate reaction recorded to the issues facing the detainees at the 10 concentration camps. Other cases were brought, with results that varied little from the Heart Mountain experience. Chase A. Clark, the governor of Idaho who had demanded concentration camps for any Japanese coming to Idaho, was the federal judge who tried the resisters from the Minidoka Relocation Center. When one of the resisters moved to quash the indictment on the grounds that incarceration rendered unconstitutional the government's attempt to draft him, the Court denied the motion without recorded opinion and proceeded to conduct 33 separate jury trials over the next 11 days. The jury for each was selected from a pool of 34 Idaho citizens, so that some jurors sat on as many as 11 cases. One lawyer protested, but Judge Clark overruled his concerns. At sentencing, those who had entered guilty pleas received 18 months in prison, while those who went to trial received 3 years and 3 months and a \$200 fine.

NARRATOR 2: Some resisters in other camps did fare better in the courts. Approximately 100 resisters from the Poston Relocation Center in Arizona were tried and found guilty, but the

judge did not send them to jail, and fined each defendant one penny. And remarkably, one federal judge simply dismissed the charges against the resisters before him on due process grounds, at some personal risk. The Honorable Louis E. Goodman of the Northern District of California was relatively new to the bench when he travelled from his chambers in San Francisco in July 1944 to Eureka to hear the case of the resisters from Tule Lake. **[Judge Goodman enters and sits at center table.]** Eureka had been well known for its anti-Asian sentiment since 1885, when all Chinese were expelled from the county and banned forever. Not surprisingly, when Judge Goodman appointed two local attorneys, their defense consisted of entering guilty pleas for their clients. After questioning the defendants himself, Judge Goodman decided to call on another attorney, a friend from San Francisco, to represent them. The new attorney moved to withdraw the guilty pleas, and then to quash the indictment. Laboring on a Friday evening in a town without a law library, Judge Goodman and his law clerk put together an opinion and packed their bags for a quick getaway, fearing a lynching. With their car idling outside the courtroom, Judge Goodman read his opinion from the bench on Saturday, July 22, 1944:

JUDGE GOODMAN: It does not follow that because the war power may allow the detention of defendant at Tule Lake, the guaranties of the Bill of Rights and Constitutional provisions are abrogated by the existence of war. . . . It is shocking to the conscience that an American citizen be confined on the ground of disloyalty, and then, while under duress and restraint, be compelled to serve in the armed forces, or be prosecuted for not yielding to such compulsion. . . . The issue raised by this motion is without precedent. It must be resolved in the light of the traditional and historic Anglo-American approach to the time-honored doctrine of

"due process." It must not give way to overzealousness in an attempt to reach, via the criminal process, those whom we may regard as undesirable citizens.

The motion to quash the indictment is granted and the proceeding is dismissed with respect to the defendant Kuwabara and the twenty-five other defendants similarly charged.

[Judge Goodman exits.]

NARRATOR 1: The government chose not to appeal Judge Goodman's decision, and it was therefore never reversed. In affirming the conviction of the Poston resisters, however, the Ninth Circuit noted that "wherein the reasoning of the *Kuwabara* opinion differs with that of this opinion, it may be taken that we are not in accord therewith."

VI. The Appeals

A. Fujii v. United States

NARRATOR 2: Meanwhile, the Heart Mountain resisters appealed to the Tenth Circuit in Denver. They gathered funds to hire Menin to argue the case. Fujii was the named resister, but by stipulation, all 63 of the convicted resisters agreed that their convictions would be controlled by the outcome of Fujii's appeal.

Menin argued to the Tenth Circuit:

[Menin takes front and center.]

MENIN: Can the government do no wrong? Can it subject its people to a loss of civil rights and property without due process of law and at the same time require compliance with the draft act? What then, would the Nisei be drafted to fight for? So that their parents, sisters, and brothers may continue to remain behind barbed wire under military guard?

If our government cannot trust American citizens of Japanese ancestry so that we can accept them on an equal basis and accord them equal rights, then how can we ask them to fight, and for what do we ask them to fight? Is it to fight for a continuation of relocation centers with armed guards and barbed wire? How can we ask them to lay down their lives in approval of such unconstitutional treatment?

[Menin exits. Judge Huxman enters and sits at center table.]

NARRATOR 1: In an opinion written by Judge Walter Huxman, the Tenth Circuit rejected Menin's arguments and affirmed the resisters' convictions.

JUDGE HUXMAN: Fujii was loyal to the United States at all times. There can be no question about this. He indicated no desire to live in Japan. He wanted to fight for this country if his rights as a citizen were restored.

Fujii's entire appeal is predicated on the argument that his confinement behind barbed wire in the relocation center without being charged with any crime deprived him of his liberty and property without due process of law -- and therefore, he should not to be required to render military service until his rights were restored.

Fujii could have secured his complete release from the relocation center at any time by writ of habeas corpus. This would have restored his freedom and cleared his name. But this he did not do. Instead, he chose to disobey a lawful order because he claimed his rights had been invaded. Two wrongs never make a right. One may not refuse to heed a lawful call of his government merely because in another way it may have injured him.

Fujii was a citizen of the United States. He owed the same military service to his country that any other citizen did. Neither the fact that he was of Japanese ancestry nor the fact that his constitutional rights may have been invaded by sending him to a relocation center cancel this debt.

The judgment convicting the 63 Heart Mountain draft resisters is affirmed.

[Judge Huxman exits.]

B. Okamoto v. United States

NARRATOR 2: The defendants who had been convicted in the conspiracy trial also appealed. By the time Wirin argued the appeal to the Tenth Circuit, the importance of the instruction he had requested at trial was clear: as he had hoped, the Supreme Court had reversed the Second Circuit and upheld the test case defense. **[Judge Bratton enters and sits at center table.]** On December 26, 1945, in an opinion written by Judge Sam Bratton, the Tenth Circuit reversed the judgments of conviction and remanded the cases to the district court.

JUDGE BRATTON: First, as to the sufficiency of the evidence claim, the jury was entitled to resolve the issues of fact. It cannot be said that the evidence was insufficient to support the verdict and judgments.

Second, as to the First Amendment claim, freedom of speech, freedom of the press, and freedom of assembly are fundamental rights. But, though fundamental, they are not in their nature absolute. These rights are not unbridled license to speak, publish, or assemble without any responsibility whatever. The First Amendment does not protect the speech, publication, or assembly in furtherance of a conspiracy to promote evasion of an act reasonably designed to

protect the Government against a clear, present, imminent, extremely serious danger of a substantive evil -- here, destruction by a military force.

Finally, the jury instruction merits discussion. The Supreme Court recently reviewed *Keegan*, the facts of which are fairly comparable to those presented here. In *Keegan*, pro-Nazi German Americans were prosecuted for counseling draft resistance to preserve their German spirit. The Supreme Court reversed the convictions in *Keegan* and approved the “test case” instruction, holding:

One with innocent motives, who honestly believes a law is unconstitutional and, therefore, not obligatory, may well counsel that the law shall not be obeyed; that its command shall be resisted until a court shall have held it valid, but this is not knowingly counseling, stealthily and by guile, to evade its command.

In light of *Keegan*, it is clear that the trial court erred in giving the instruction. The court should have instructed the jury to consider appellants’ good faith and sincerity in bringing forth a test case to determine their status under the Act.

The judgments convicting all seven of the FPC leaders are severally reversed and the causes remanded.

[Judge Bratton exits.]

VII. Aftermath and Conclusion

NARRATOR 1: On April 29, 1945, the 442nd regiment, the all Japanese-American regiment, freed prisoners at the Dachau concentration camp. Germany surrendered on May 8,

1945; Japan, on August 15, 1945. The Heart Mountain camp closed on November 10, 1945.

The Heart Mountain draft resisters continued to serve their sentences until approximately a year after the war ended, and many months after the closure of Heart Mountain. One resister never saw his freedom. Two days before he was scheduled to be released, Fred Iriye, who worked as an electrician in the prison power plant, was training the inmate who was to replace him. He touched an electrical switch, believing it had been disconnected. He was killed instantly.

NARRATOR 2: On Christmas Eve 1947, President Truman granted the draft resisters a full presidential pardon, restoring all their civil and political rights. On February 19, 1976, President Gerald Ford formally rescinded Executive Order 9066 and on August 10, 1988, the United States Congress enacted the Civil Liberties Act. On behalf of the nation, Congress thereby apologized for what it described as “fundamental violations of basic civil liberties and constitutional rights” of individuals of Japanese ancestry who were evacuated, relocated and interned. Representatives Robert Matsui and Norman Mineta, who had been interned as children, co-sponsored the Legislation. Senators Spark Matsunaga and Daniel Inouye, both members of the fighting 442nd, pushed for the bill and its amendments in the Senate, which ultimately guaranteed funds for reparation payments to internment survivors beginning in October 1990.

NARRATOR 1: What became of the defendants in the Heart Mountain trials? Jimmie Omura may have escaped conviction, but his career as a newspaperman was over. He became a landscape gardener. Upon release from Leavenworth, Frank Emi became a career civil servant. He worked for the postal service and the California state employment office. He also taught judo as an eighth-degree black belt. In the 1980s, he joined the Japanese-American redress movement and publicly spoke out about his wartime civil disobedience. In 1993, he explained that:

[Emi pops up in place.]

EMI: We could either tuck our tails between our legs like a beaten dog or stand up like free men and fight for justice.

NARRATOR 2: Emi passed away on December 1, 2010, at the age of 94. He was the last surviving leader of the FPC. Takeo Ishikawa, whose letter we read at the beginning of our program, passed away on June 5, 2016, at the age of 97.

NARRATOR 1: All told, some 315 Japanese-American men defied the draft in World War II. They were by far the minority, as the great majority answered their induction orders, reporting to fight for freedom overseas even as they and their families were held in concentration camps. In some respects, those who said "no" were just as courageous as those who fought. They took a stand even as critics labeled them cowardly draft dodgers, and there were whispers that they just "didn't want to get shot at." After the resisters were arrested, their families were ostracized and taunted by other camp residents. When the War ended, those who fought were welcomed home as heroes, while the resisters remained in prison until they completed their sentences and were then released as convicted felons. Later, when some of the resisters were drafted again to fight in the Korean War, they served willingly, for their rights had finally been clarified when President Truman granted them a pardon.

NARRATOR 2: Most of the draft resisters were not willing to tell their stories for decades. For Japanese-Americans and for Americans generally, it was the heroism of the fighting 442nd that inspired, not the principles of the draft resisters. Only recently did the resisters begin to tell their story, and only recently have even the heroes of the 442nd acknowledged their contribution. In the foreword to Professor Muller's book about the draft resisters, "Free To Die For Their Country," Senator Inouye, a member of the 442nd, described their experience as follows:

[Inouye takes front and center.]

INOUYE: In this climate of hate, many felt the necessity of stepping forward to volunteer for service in the military to prove their loyalty to the United States. These men for the most part carried out their military obligations with much courage and valor.

However, in this climate of hate, I believe that it took just as much courage and valor and patriotism to stand up to our government and say “you are wrong.”

I am glad that there were some who had the courage to express some of the feelings that we who volunteered harbored deep in our souls.

[Inouye exits.]

NARRATOR 1: This reenactment has provided another way for the draft resisters to get their story out. It was first performed in November 2012 at the annual conference of the National Asian Pacific American Bar Association. In June 2014, two of the original Heart Mountain draft resisters, Yoshito Kuromiya and Takashi Hoshizaki, participated in a presentation of this reenactment in Cody, Wyoming, just a few miles from the site of the Heart Mountain internment camp. They were both in their 90s, and Mr. Kuromiya played himself. Both are still alive today, and Mr. Hoshizaki is a board member of the Heart Mountain Wyoming Foundation.

NARRATOR 2: The reenactment has already been performed at least nine times that we know of, including at the New York Historical Society, at Princeton University, and in Honolulu, Hawaii. The script and slides have been made available on the internet by the Asian American Bar Association of New York and by the Second Circuit Court of Appeals through its Civic Education Project.

NARRATOR 1: What about the others who played a role in the Heart Mountain trials? Samuel Menin continued to defend the rights of racial minorities, political dissidents, and the

imprisoned. In 1948, when the United Nations General Assembly promulgated the Universal Declaration of Human Rights, Menin openly challenged the country to enforce the Universal Declaration at home before attempting to enforce it abroad. A.L. Wirin continued to represent Japanese and other clients in civil rights cases, practicing law until he suffered a heart attack in 1972. Carl Sackett, the United States Attorney for the District of Wyoming, left the Office in 1949, and was replaced by his second chair at the Mass Trial: John Pickett. Judge Goodman, the federal judge who found that the plight of the Japanese-American draft resisters shocked the conscience, never lost his concern for the underdog. One of his law clerks recalled that the judge was once turned away from a southern resort hotel because he was Jewish. In a Yom Kippur sermon he delivered in a San Francisco temple in 1947, he made the following remarks:

[Goodman takes front and center.]

GOODMAN: We must all scrutinize both our Americanism and our faith. If we do that, we find a common obligation: to cherish the cause of the oppressed or the disenfranchised. Gallantry and intrepidity in a just cause are the essence of strength. They command respect and admiration.

[Goodman exits.]

NARRATOR 2: What can we take away from the story of the Heart Mountain draft resisters? It is a difficult tale to tell, for it surely suggests that the system doesn't always work as it should, despite the best efforts of dedicated individuals who years later still command respect and admiration. Perhaps the only true lesson is the need for vigilance. One of the children incarcerated at the Gila "Relocation Center" was Michi Nishiura Weglyn, who graduated from the camp high school in 1944 and was freed when Mount Holyoke College gave her a full

scholarship. She wrote one of the earlier books about America's Concentration Camps, and in the preface, she stated her purpose as follows:

[Michi takes front and center.]

MICHI: I have taken upon myself the task of piecing together what might be called the “forgotten” – or ignored – parts of the tapestry of those years. This I have done not to awaken disquieting memories or arouse negative feelings, but because of a clear responsibility. I feel for those whose honor was so wrongly impugned, many of whom died without vindication.

More significantly, I hope this uniquely American story will serve as a reminder to all those who cherish their liberties of the very fragility of their rights against the exploding passions of their more numerous fellow citizens, and as a warning that they who say that it can never happen again are probably wrong.

TESTIMONY OF ROBERT ALAN JOHNSON, ATTORNEY FOR KOREMATSU CENTER
FOR LAW & EQUALITY, IN SUPPORT OF RES. NO. 792

October 25, 2017

Contact: Robert Alan Johnson
Akin Gump Strauss Hauer & Feld LLP
rajohnson@akingump.com (212) 872-1077

My name is Robert Johnson, and I am a partner in the Akin Gump law firm. We are a global law firm with more than 200 lawyers in our New York office.

We proudly represent the Korematsu Center for Law & Equality in connection with the Muslim travel ban litigations. We filed our first *amicus curiae* brief on behalf of the Korematsu Center — and a group of affiliated friends of the court — just nine days after the announcement of the first Executive Order imposing the travel ban. As of this date we have filed 10 iterations of our *amicus* brief – in various courts, including the Supreme Court. Now that these cases have been sent back to the district courts, we expect to file revised versions of our *amicus* brief on appeal.

I am here today to express my personal support for Resolution 792, establishing January 30th as Fred T. Korematsu Day.

The designation of Fred Korematsu Day is appropriate because a commemorated day becomes an opportunity for teaching and learning. Curious minds will ask, “Who was this Fred Korematsu, and why are we commemorating him?” Teachers will have an opportunity to incorporate Fred’s story into their lesson plans. The media will have an occasion to do features about the Japanese American incarceration.

All of this is desirable because we have important lessons to learn from Fred Korematsu, and through him, important lessons about the Japanese American incarceration during World War II. These are lessons about prejudice, about our treatment of minorities, about honor, about perseverance, about constitutional law and our judiciary, and about how things can go horribly

TESTIMONY OF ROBERT ALAN JOHNSON, ATTORNEY FOR KOREMATSU CENTER FOR LAW & EQUALITY, IN SUPPORT OF RES. NO. 792

wrong when the truth is hidden from our judicial system and about redemption when the truth is finally revealed.

I say this from my own personal experience of working on these *amicus* briefs in the past nine months. I, myself, have learned so much about Fred and about these issues during our work on the travel ban litigation. There is so much about Fred's story that I never learned in school. Working on these briefs, I learned more detail about Executive Order 9066, issued by Franklin Delano Roosevelt some 10 weeks after Pearl Harbor. The Executive Order used neutral language with respect to race and ethnicity, but it gave the military broad authority to remove entire classes of people from zones considered to be of military significance. The Empire of Japan was of course our enemy and the war had just begun for Americans, but there was an underlying anti-Japanese American sentiment broadly shared among many here in the United States, and our government took advantage of that sentiment.

And then the military issued a series of orders that caused the removal and incarceration of more than 110,000 people. It was done in the name of purported national security, but really because of that underlying prejudice. There was no factual finding or conclusion of law that specific individuals needed to be incarcerated because they posed a threat to the United States. Instead, our country took these broad actions based on race and ethnicity.

What we learned in the 1980s was that the purported military necessity was a fraud. We learned that the War Department had suppressed evidence from the FBI and other federal agencies that undermined the justification for the removal and incarceration.

We also learned that in 1942 and 1943, during the litigation of test cases brought by Fred Korematsu, Min Yasui, and Gordon Hirabayashi, the Solicitor General's office of the United States Department of Justice, had suppressed this contrary evidence and presented an incomplete

TESTIMONY OF ROBERT ALAN JOHNSON, ATTORNEY FOR KOREMATSU CENTER
FOR LAW & EQUALITY, IN SUPPORT OF RES. NO. 792

record to the courts. The result was three horrible Supreme Court decisions that remain on the books today. Fortunately, after new litigations were brought in the 1980s, the courts set aside the convictions of these three men. They were all eventually awarded the Presidential Medal of Freedom. The Congress established a Commission on the Wartime Removal and Internment of Civilians, and enacted a law providing reparations to those who had been removed.

This is an important story that needs to be told. Designation of Fred Korematsu Day will give New Yorkers a reason to see a film or television documentary, such as ““Never Give Up!” by Holly Yasui, or “And Then They Came For Us,” by Abby Ginzberg. Or to see a screening of the film version of the Broadway play “Allegiance,” by Jay Kuo, inspired by the experience of George Takei. Or to read from the many books about the Fred Korematsu story. Through these works, we can remind ourselves of what happens when prejudice overruns the truth, and what we as Americans must not do in similar situations.

Accordingly, I respectfully urge passage of the resolution.

Testimony by Elizabeth R. OuYang, Esq.

Before New York City Council on Cultural Affairs

October 25, 2017

I strongly support Resolution 792 to declare January 30th - Fred T. Korematsu Day. Today is my birthday and I can't think of a more meaningful way to celebrate it. For the past 30 years, I have been a civil rights attorney and for the past 16 years, I have taught at Columbia and New York Universities. I teach a pre-law course, "Constitution and Communities of Color" and a course on Post 9-11 Policies Impacting Immigrants." *Korematsu vs. U.S.* is a landmark Supreme Court case we cover each year, along with Judge Patel's decision 40 years later, overturning his war time conviction.

For failing to follow General DeWitt's order to leave the "zone" he grew up in because of his Japanese ancestry, Fred Korematsu was convicted. Judge Patel's 1983 decision to overturn the conviction overruled *Korematsu* in the court of history, but the Supreme Court's devastating decision upholding the constitutionality of these orders is still valid in the court of law. However, Judge Patel stated "As a legal precedent, it is now recognized as having very limited application."

Unfortunately, since 9/11/2001, the "misguided policies of exclusion, removal and detention based on discriminating identifiers" have only become more intensified in these past 16 years. What was rampant racial and ethnic profiling of Japanese Americans during World War II is rampant and unrelenting religious and ethnic profiling of Arabs, Muslims, and South Asians today. Our country needs to be reminded of the human consequences of these vagrant unconstitutional atrocities, especially now. The remaining survivors of Japanese American internment are a dying generation. Declaring January 30th -Fred T. Korematsu Day is a permanent reminder that "in times of war or declared military necessity our institutions must be vigilant in protecting constitutional guarantees."

And our young children must have heroes that look like Fred Korematsu. Earlier this month I was giving a talk at to fifth graders at P.S. 130 on what "legacy" means. To prepare, I asked my 8 yr old nephew Timothy of famous people he knew that had died. He cited Martin Luther King, Amelia Earhardt, and George Washington. When I asked him about famous Asian Americans who had died, Timothy said he didn't know any. Having a day specifically set aside to honor Fred Korematsu will cause these young people to ask, "Who was he?"

And Fred Korematsu is a role model for all. By memorializing January 30th as Fred T. Korematsu Day, it will serve as a reminder that persons of Asian ancestry can be American. It will be a reminder that resistance to unlawful policies that defy our constitution's guarantees of equality and due process is our civic duty. And it will be an unequivocal reaffirmation that New York City whose mayor at the time did not want released Japanese internees to relocate to the Big Apple, welcomes all ethnicities, including persons of Japanese ancestry.

Testimony of Myung Keun (Tony) Choi, 18MillionRising.org
Before the New York City Council Cultural Affairs Committee Hearing on
Res. 792, Establishing January 30 annually as Fred T. Korematsu Day

On behalf of 18MillionRising.org and our 100,000 members, we respectfully submit the following testimony on Res. 792, Establishing January 30 annually as Fred T. Korematsu Day.

October 25, 2017

Good afternoon. My name is Tony Choi and I work at 18MillionRising.org as a social media manager and online organizer. 18MillionRising.org (18MR) brings Asian American communities together online and offline to reimagine Asian American identity with nuance, specificity, and power. Using technology and popular culture, we develop new ways for Asian Americans and our allies to collaborate, create new ways of being, and transform the world around us.

Because of our emphasis on connecting young Asian Americans to our heritage in social movements, we have long held Fred T. Korematsu in high esteem as an ancestor whose life's work, speaking out against injustice, provides inspiration as we grapple with our own generation's challenges. Mr. Korematsu's life, from his quotidian beginnings as the son of Japanese immigrants who ran a plant nursery to joining his peers as one of the best known individuals to resist the wartime imprisonment of Japanese Americans under Executive Order 9066, serves as a powerful reminder that ordinary people are capable of extraordinary courage. Moreover, his commitment to speaking out against government profiling against members of other racial, ethnic, and religious groups well into his 80s makes him a lifelong role model for all those who know that the fight for civil and human rights is an enduring struggle.

In these times, examples like Mr. Korematsu are especially important. For every immigrant in this city who feels threatened by xenophobic rhetoric, every Muslim in this city who worries about Islamophobic violence, every Black person in this city who fears a chance deadly police encounter, Mr. Korematsu's life story gives strength and hope that the actions of individuals speaking out in the face of prejudice and profiling can, and do, make a difference for all of us.

Fred T. Korematsu Day is a celebration of a man who did not give up in the face of adversity, because he knew his cause was just. It is an opportunity for all of us - not just Japanese Americans, and not just Asian Americans - to honor the work of this freedom fighter and those who worked with him in his lifelong struggle for equal protection under the law.

Fred T. Korematsu Day has become recognized by different jurisdictions across the United States since his death in 2005, including nine states, from Georgia to California. Thanks to our advocacy in collaboration with the Korematsu Institute, in January of 2017 Google honored Mr. Korematsu with one of their popular Google Doodles, bringing this story to a wide audience online. Such recognition is more than symbolic: it speaks to our values as a society and our commitment to seize every opportunity and tool we have fight racism.

We thank the Cultural Affairs Committee for its efforts to bring Mr. Korematsu's story to the attention of more New Yorkers, and to share in the hope that our history provides in dark times. We look forward to celebrating Fred T. Korematsu Day with you all in 2018.

Today, we gather to testify to Fred Korematsu's legacy and the educative implications of establishing a Fred Korematsu Day in the State of New York. I come to speak as a daughter and granddaughter of Japanese Americans incarcerated during World War II; as a resident of Brooklyn, New York; and, finally, as a researcher of the endeavors to teach the history of the Japanese American incarceration to public audiences.

In 1942, Fred Korematsu defied the racially-motivated exclusion orders issued by the U.S. government. While his case would eventually be lost in the Supreme Court, the value in Korematsu's case lies in its unmasking of the errancy and fragility of our democracy. It is unfortunate that we often fail to glean lessons from the past, namely the dangers of an unchecked executive authority. Though we might, as a citizenry, recognize what historical cases like the Japanese American incarceration have to teach us, we are all too often incapacitated to apply those lessons to our own times. We live in a political climate that--similar to those faced by Korematsu and Japanese Americans--that names and others, that strictly defines the bounds of who can belong and who cannot.

The circumstances of our current times brings me to the decision before us today: to establish a single day commemorating Fred Korematsu. The establishment of a Fred Korematsu Day here in New York, a sanctuary city, a city long populated and bolstered by immigrants, is a potent symbolic gesture. It is also a potent pedagogical move, too: It offers us a day, a pause, and a reason to collectively consider the meaning of dissent and vigilance in upholding liberal democracies.

This year, I became involved with the Korematsu Institute, an organization founded by Karen Korematsu to educate about her father, the history, and the broader political implications of his case. The institute hosts workshops and institutes for K-12 teachers and has developed a popular and widely-distributed curriculum. In August, the Korematsu Institute offered a weeklong curriculum writing institute for teachers in Berkeley, California. As a co-facilitator of this institute, I saw firsthand the enthusiasm of teachers--who traveled from places like New Mexico, Brooklyn, and Massachusetts--and the deep, curricular resonances they located in Korematsu's story and the history of the Japanese American incarceration. These educators spoke of the meanings this history might have their socioeconomically diverse populations, meanings of citizenship, belonging, and ways of being in the world. The Koremastu Institute's educational mission is to the explore the profound limitations and possibilities, too, that lie in our day-to-day work to uphold our constitution. A passing this measure to establish a Fred Koremastu Day would similarly educate, highlight, and gesture towards all of the work and the hope, too, in being citizens in this day in age. Thank you for your consideration.

CATHLIN GOULDING



Muslim Community Network

Connecting Communities, Creating New Spaces for Engagement

October 25th, 2017

Good Afternoon,

My name is Christina Tasca and I am the Executive Director of the Muslim Community Network, a nonprofit organization that builds civic leadership and cultivates compassion and understanding amongst the diverse multi-faith communities of New York City.

On behalf of MCN, I would like to express my sincere appreciation and gratitude to the Committee on Cultural Affairs, Libraries and International Intergroup Relations for officially establishing Fred T. Korematsu Day.

A special thank you for Council Members Dromm, Chin, Koo, Ferreras-Copeland, Rosenthal, Mendez, Deutsch, Lander, Menchaca, Palma, Vacca, Levine, Rose, Reynoso, Johnson, Koslowitz, Kallos, Treyger, Richards, Salamanca, Gentile, King, Constantinides, Garodnick, Levin, Espinal, Grodenchik, Torres, Rodriguez, Cornegy, Miller, Lancman, Perkins, Ulrich and Borelli who see the value in the establishment of this day for New Yorkers to remember a dark time in our history and say never again.

The incarceration of over 120,000 American citizens based solely on their heritage remains a glaring stain on our nation's history. During WWII Japanese Americans were profiled, abused, and relocated far from home in internment camps where they faced human rights abuses, starvation, neglect and were stripped of their rights.

We now live in a time where we see reflections of a period that we should never revisit. As a Muslim American I have born witness to my own faith community and other communities facing similar infringements on civil rights and liberties for no other reasons than fear, ignorance and political gain. Our elected leaders have the responsibility towards the care and protection of all of their constituents regardless of their heritage, national origin, race, faith, gender or any other identification which may be exploited to marginalize or oppress them.

What we do here in NYC has ripple effects across the country. The establishment of this day is a testimony to this Fred T. Korematsu's courage and conviction to rise against bigotry and fear-mongering at the highest level. It is an act of honoring of what it means to be an American. Let us today, set the example for our nation by establishing January 30th as Fred T. Korematsu Day, a day to commemorate the value of our civil liberties and the US Constitution.

My name is Julia Azuma, I am a third generation Japanese American. My parents applied to be released early from Tule Lake Concentration Camp in 1943 so that I could be born later that year in Chicago without the stigma of Camp.

My parents were part of the Re-Settlers in Chicago, an endearing name for people who had lost their livelihood during their incarceration and moved away from the Pacific Coast cities to start anew.

I was born on the South Side of Chicago. As they were released from Camp in 1945, my father's family of 5 and my mother's family of 7 all came to live with us in the same house. Fifteen people in a three story house with one bathroom. Together, they started a new life, out of the Camps in the Midwest.

As the only young child in the family, without the Camp experience, the entire family chose to hide it from me and tried to erase it from their memory. When they spoke of camp, it was in secretive whispers. Imagine the shame, humiliation and shared suffering that caused them to keep the experience hidden. They wanted me to remain innocent of the injustices done to them.

This happened to all of my childhood friends, else we would have learned from each other. I didn't learn of the Japanese American Concentration Camps until I was 13. My knowledge didn't come from tales of personal experience because no one shared it. I put the whispers together and learned from the Public Library. No one in my family or any of our family friends in the community ever shared their stories, their histories.

I went through my formative years, wanting to understand the mystery of the Camp experience. I was always asking; hoping to find out what happened. The door to the past remained shut for three decades.

After I moved to NYC, a friend in Chicago told me of the Redress movement on the West Coast. I found the Redress movement in New York in the late 70's and early 80's. I had a need to know my family's history. Our community needed a catharsis. The stories from our Nisei, spilled out. I heard and read stunning testimonies. I went to every NY meeting and later became co-chair with Leslee Inaba Wong, of the Day of Remembrance Committee for 20 years. Through the Redress movement I learned what happened to the families of all Japanese Americans from the West Coast.

I always wondered why we were unable to stand up for our Constitutional Rights. I can see how a community full of pride wanted this humiliating chapter of their lives hidden away. The Concentration Camp experience reshaped an entire community, their sense of selves, their confidence in many ways overt and subtle and through the generations.

While working with community here in NYC, we learned of the other avenues of Redress and Reparations including the Coram Nobis case and the 4 Japanese Americans who stood up for their rights and the rights of all of us; Min Yasui, Gordon Hirabayashi, Mitsuye Endo and Fred Korematsu.

It's important to all of us to have a day named for a champion of civil rights, Fred Korematsu.

It's relevant for the country to have a shared moment when we can stand together and remember the tragic time when racism created a loss of our collective freedom and damaged our civil liberties.

Fred Korematsu Day will remind all of us NOT to let it happen again to any group.

I'd like to express my deep appreciation to Committee Chair, the Honorable James Van Bramer for scheduling this hearing

Julie Azuma
President, Different Roads to Learning, Inc.
Regional Co-Chair US Japan Council
Japanese American Association, Vice President
Japanese American National Museum, Board of Governors.
Association of Science in Autism Treatment, Boardmember

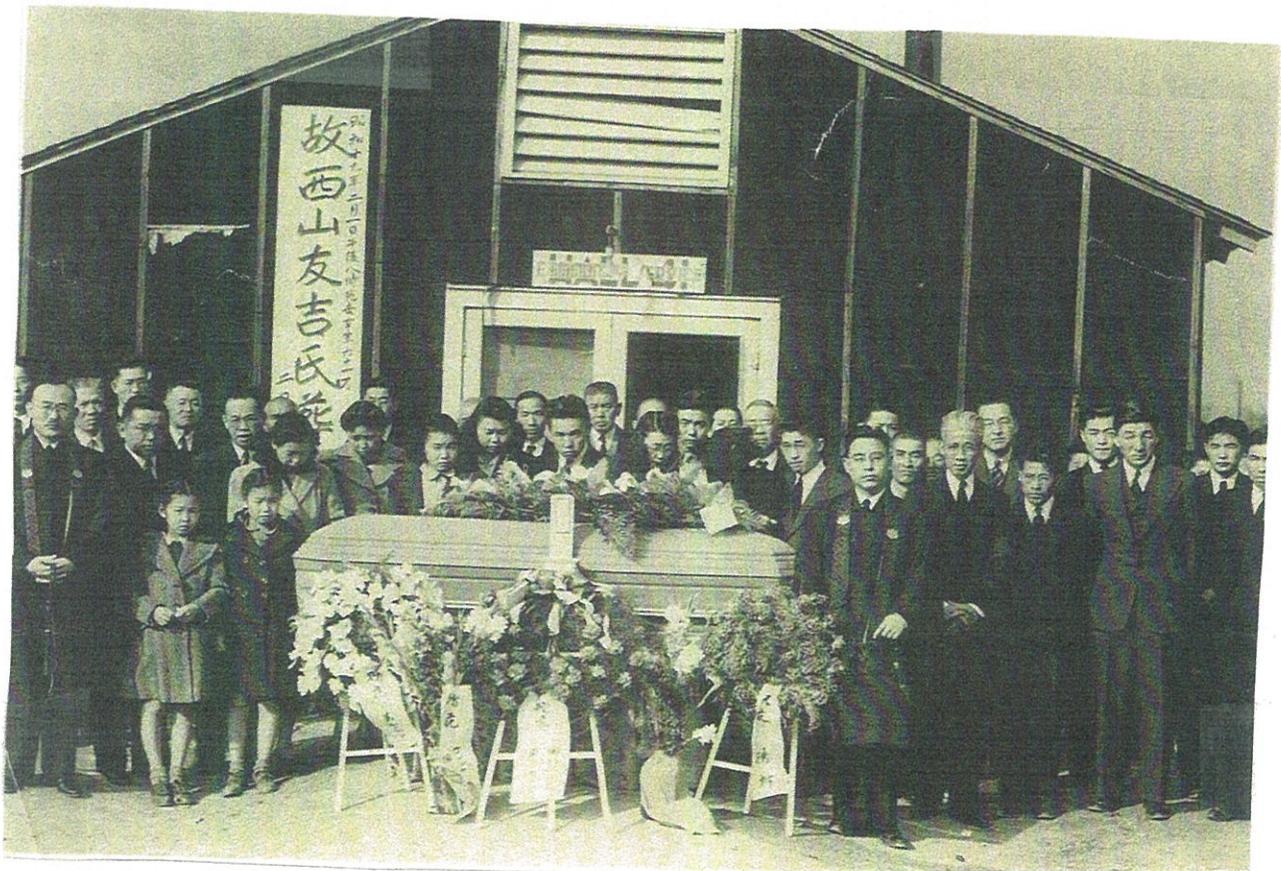


Photo of my grandfather's funeral, surrounded by family in Heart Mountain circa 1944



**YEMENI AMERICAN
MERCHANTS ASSOCIATION -
YAMA**

We applaud and thank the Committee of The Cultural Affairs, Libraries, and International Intergroup Relations for officially establishing Fred T. Korematsu Day, a day to commemorate the value of our civil liberties and the US Constitution that we hold dear on January 30th of each year.

A special thank you to Council Members Dromm, Chin, Koo, Ferreras-Copeland, Johnson, Koslowitz, Kallos, Treyger, Richards, Salamanca, Gentile, King, Constantinides, Garodnick, Levin, Espinal, Grodenchik, Rosenthal, Mendez, Deutsch, Lander, Menchaca, Palma, Vacca, Levine, Rose, Reynoso, Torres, Rodriguez, Cornegy, Miller, Lancman, Perkins, Ulrich and Borelli who see the value in the establishment of this day for New Yorkers to remember a dark time in our history and say never again.

Fred T. Korematsu courageously fought the US Government in the Supreme Court for the incarceration of 120,000 Japanese Americans during WW2. His courage, gives Muslim Americans and I the courage to stand up the Travel Ban created to target Muslim majority countries. The establishment of this day is not just about the accomplishments or actions of one man, but is a highly symbolic acknowledgement of how racially and religiously motivated policies can infringe on our basic civil and human rights, which are morally wrong.

The time we are living in carries a tinge of the treatment of the Japanese Americans during World War II, where they were rejected, profiled, abused, neglected, and displaced due to the fact they were Japanese. The scare tactics used to justify the Travel Ban are the exact scare tactic used in World War II against Japanese Americans. Our nation's current state is a reflection of those in power then, the fact that it is happening in the 21st century is alarming. The current administration has caused a great deal of insecurity for Muslims, Blacks, Immigrants, Mexicans, LGBTQIA communities, and women. As a nation, we should not be turning back to the dark times of our history where, exclusion propaganda and fear mongering dictated policies.

This resolution speaks for all marginalized communities who are easily targeted when the political tide turns against them. The continued mass incarcerations, racial profiling, separation of immigrant families, the Ban of Muslim majority countries and the contemplation of a Muslim registry as promised by the US Commander and Chief are unacceptable. The abuse of power in our nation and the violation of our civil liberties are beyond belief. As a nation recognized by the world as the land of the free and the land that welcomes immigrants with open arms, we have earned a reputation of exclusion and bigotry. We must learn from our past and say never again. We can no longer remain silent, our silence is psychological violence. At this moment and time we must defend and protect our civil rights to live with respect and dignity.

Let us today, change the course of our city by establishing January 30th as Fred T. Korematsu Day, a day to commemorate the value of our civil liberties and the US Constitution, which we all hold near and dear.

Thank you,

Dr. Debbie Almontaser
CEO of Bridging Cultures Group Inc. Testifying on behalf of Yemeni American Merchants Association.

Statement from the New York Day of Remembrance Committee in support of Resolution 792 to establish Fred Korematsu Day on January 30th, in New York. *[To be read by Kim Ima on October 25, 2017 City Hall, New York]*

We would like to thank City Council Member Danny Dromm, The Korematsu Institute, the New York Chapter of the Japanese Citizens League, Committee Chair Jimmy Van Braemer, and all the council members who have supported this resolution, for their leadership in supporting civil liberties.

The New York Day of Remembrance Committee was instrumental in bringing the Commission on Wartime Relocation of Civilians to New York in 1981 to hear the testimony of Japanese Americans from the West Coast, but also Japanese American New York who were wrongfully imprisoned during World War II in their homes and at Ellis Island. The findings of that commission, which held hearings nation-wide, were published in their report, "Personal Justice Denied".

In their report they pointed to the causes of this dark chapter of U.S. history as "racism, war hysteria and a failure of political leadership". The report contributed to a resolution process which included passage of H.R. 442, a presidential apology and individual, monetary reparations to survivors in 1988.

It has been our Committee's mission since, to honor the stories of Japanese American New Yorkers who were imprisoned, to educate the public about the WWII incarceration and to work for vigilance in the protection of all people living in the United States whose civil liberties are currently under attack.

One of the guiding principles of Day of Remembrance committees across the nation is "that in order to heal from the past, we must first acknowledge and learn about it." We believe that those who forget their history are doomed to repeat it.

New York City, in many areas has been a role model to the world of as a city that embraces a civil society, even though Mayor LaGuardia opposed re-settlement of Japanese Americans in NYC after WWII.

Our city is a beacon in a time that needs many lights to shine fiercely against the darkness of hate and bigotry.

75 years after the Japanese American incarceration when we find political surrogates of the Trump administration calling for "Muslim registries" and when ICE raids are being conducted on immigrant communities- we must stop to consider the parallels to WWII when Japanese Americans were singled out, registered, rounded up, stripped of their rights and targeted with similar racially motivated policies.

Our community knows well the dangers of "racism, war hysteria and failure of political leadership". And what we recognize taking place today in the targeting of Muslim Americans, and immigrants is deeply disturbing to us.

We made a vow in the years since WWII: "Never Again".

That is why we are here today to ask that you stand with us.

Mr. Korematsu is a national hero for standing up to injustice in his time. His story of resistance and courage resonate hope and are cause for celebration and honest reflection. By recognizing him annually, we create an opportunity to shine a light on this inspiring story of fortitude. At the core of what inspires us about Mr. Korematsu is the story of an individual citizen who challenged wrongful imprisonment and exclusion.

It is of deepest importance that we as New Yorkers take public positions to not only celebrate civil liberties heroes such as Fred Korematsu, but to continue to speak out for the democratic and American ideals that he felt so strongly about that he would stand up and speak out, knowing he would be persecuted for doing so.

The Day of Remembrance Committee joins our fellow New Yorkers in requesting that the Council unanimously support Resolution 792.

Thank you

TESTIMONIAL FROM TAK FURUMOTO

Good afternoon. Today is a great day for all Americans who believe in our Constitution and we the people who are here to preserve it.

Let me give you my background before I give the testimonials. You will see that my entire life of 73 \ years has been impacted by wars. My name is Takeshi Furumoto but everybody calls me "Tak". I was born in the Tule Lake Segregation Camp in Northern California—the most heavily guarded camp among the ten camps. If Fred Korematsu was not imprisoned, he would have been in this camp. My family went from Santa Anita Race track in Los Angeles, CA to Rohwer Internment camp in Arkansas to Tule lake—my parents answered "no,no" to loyalty questions 27th and 28th--would you serve in the United States Armed Forces and commit allegiance to the same and would you disavow the Emperor of Japan—2 unfair and loaded questions. The duration of internment was close to 4 years without due process and loss of their business and property.

It was not until 1988, when the Civil Liberties Act was passed repealing Executive Order 9066—it took 42 years. Let me read the apology letter I received from President Clinton on October 1, 1993. Only half of us were able to receive the apology and token compensation of \$20,000. My only regret was that my parents and half of the internees were not able to read the apology letter as they had passed on years earlier. When we were released from the Camp in December of 1945, we were deported to Hiroshima, Japan which had been devastated by the atomic bomb but it was where my grandparents of both of our parents lived—my parents were told never to come back. Our family wanted to come back to the United States, but us siblings were too young to come back—the U.S. government did not take our citizenship away, thank goodness, just the adults who wanted to go back to Japan. When my oldest sister turned 20 in 1952, she came to the United States first and when my second oldest sister turned 20 in 1953, she came to the United States, and together, they recalled my father to the United States in 1954—this was only way my parents were able to come back to the United States. In 1955, my 3rd oldest sister came; and, finally in 1956, my 4th oldest sister, my Mother and I came back to the United States. The rest is history as we worked and studied hard to realize our American dream.

However, life in the United States was not too kind to us. We lived in South Central LA in the 1950's, the Harlem of Los Angeles, as we were steered into the undesirable neighborhood. All of us grit our teeth to gain our education, so we could get out of the ghetto. In February of 1968, I volunteered in the United States Armed Forces for a three year term and graduated from the Engineering Officer Candidate School. I served in Vietnam from February of 1970 to February of 1971 as an Army Intelligence Officer. I was decorated with a Bronze Star in January of 1971—but I came back with PTSD and later diagnosed with Agent Orange. I am a disabled Vietnam Veteran. I gave my wife, Carolyn a hard time. It took 7 to 8 years for me to calm down. Without her, I may be homeless in NYC. After coming back from Vietnam, I could not hold a job due to PTSD and finally in 1974, I started my own real estate company, so I would not be terminated. I was the first Japanese American to start a real estate brokerage firm in the entire East Coast—this was quite by accident.

But today, I'd like to tell you a success story due to people like Fred Korematsu and the Japanese Americans who went all the way to the Supreme Court to prove that our constitution still works. Today, at the age of 73, I still have offices in Manhattan, White Plains, NY and Fort Lee, NJ with a sales staff of 30. In 1988, our company was one of the top companies to sell Trump Park condo in Manhattan. In November of 2000, my wife and I were the first Asian Americans to receive Man and Woman of the Year from the Fort Lee Chamber of Commerce and in February of 2015, Carolyn and I received the "key" to the borough of Fort Lee. These are parts of an American dream that every Immigrant in the United States dreams about. Every ethnic group has contributed to make America better. During WW2, the young Japanese Americans volunteered in the United States Armed Forces and fought in Europe and were the most decorated Army unit in the entire history despite their families being imprisoned in the camps. I am so lucky to have them as my predecessors and now we ask the younger generations to keep this country vibrant and moving.

In conclusion, my experience is only one story which had impacted one American family. It is the courage and intestinal fortitude of people like Fred Korematsu who believed in the American system and who would give up years of his life to prove that our Constitution really works. Fellow Americans, let's be vigilant of our inalienable rights, liberty and the pursuit of happiness, and let our Japanese American's experience of imprisonment be the first and last one. Let's not have the divisiveness of race, creed, gender and our differences divide the nation, but rally behind Fred Korematsu's ideal to unite this country together. Our Constitution is every bit worth fighting for. Let's have January 30th as Fred Korematsu Day—our inalienable Rights Day.

Tak Furumoto

Citizen of the United States.

Asian Americans

AN ENCYCLOPEDIA OF SOCIAL, CULTURAL,
ECONOMIC, AND POLITICAL HISTORY

Volume I: A–F

XIAOJIAN ZHAO AND
EDWARD J. W. PARK,
Editors



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Santa Barbara, California • Denver, Colorado • Oxford, England

Shirley Hana and Cecil Newman, eds. *Asian/Pacific American Studies: A History of the Field in the United States*. Honolulu: University of Hawai'i Press, 2007.

licensed to recruit laborers. This marked the beginning of the *jiyu imin*, or “free migrant” period, which ended in 1908 with the passing of the Gentlemen’s Agreement.

Plantation Life

Under contract in Hawaii, Japanese migrants were required to work on sugar plantations for a period of three years. Although their monthly wages were greater than what they could earn in Japan, life as a plantation worker was harsh. Men and women toiled in the sugarcane fields in gangs of 20 to 30 from sunup to sundown. Constantly watched by a *luna*, or foreman, who was either white or Portuguese, both men and women were pushed to work harder and faster. Men were often charged with the tasks of hauling heavy cane stalks, while women were concentrated in field operations such as hoeing and stripping leaves.

Seeking to avoid the problems of prostitution, gambling, and alcoholism often existent in bachelor communities, the Hawaiian and Japanese governments actively promoted the immigration of *Issei* (first generation) women. They came as wives through the picture-bride system. In addition to working in the cane fields, women also bore the brunt of work in the home and plantation campus. Women were expected to care for their children and in the evenings they took in laundry for pay, as well as cooked, cleaned, and mended for large groups of single men. When the contract-labor system was outlawed in 1900 following the annexation of Hawaii to the United States, thousands of Japanese laborers left the plantations to work in downtown Honolulu. Others went home to Japan or moved to the West Coast until the passing of the 1908 Gentlemen’s Agreement ended this migration.

Issei Arrival in the Continental United States

On May 27, 1869, one year after the *Sciotto*’s crossing, followers of feudal lord Matsudaira Katamori of Wakamatsu arrived in San Francisco on board the Pacific Mail Company’s *China*. This first group of Japanese to the continental United States consisted of samurai, farmers, tradesmen, and four women. They settled in Placerville, California, where they established the Wakamatsu Teak and Silk Farm Colony.

Because of unfavorable farming conditions, the attempt to establish a prosperous farm colony ultimately failed and at the end of two years most returned home.

Impoverished students, or *kugaseki*, preceded the arrival of Japanese immigrant laborers in the continental United States and were the first Japanese immigrants to come in large numbers. During the Meiji era there were two broad categories of students that went abroad to study: the elite government-scholarship holders and students who traveled at their own expense. The former group came from the upper class, was granted full stipends by the Meiji government and was concentrated on the East Coast of the United States. The latter came as sojourners at first, set on learning English and acquiring some kind of skill that would lead to a profitable career in Japan. While in the United States, the students had to work for a living and for this reason were also known as *dekasegi-shosei*, or student laborers. Beginning in the mid-1880s, scores of student laborers landed in San Francisco. In the eight-year period between 1882 and 1890 the Japanese government issued 3,475 passports to persons leaving for the United States, of which 1,519 were issued to students.

The large-scale emigration of Japanese laborers to the continental United States did not begin until the early 1890s. The passing of the 1882 Chinese Exclusion Act forced employers in the United States to search for another source of cheap labor. Between 1891 and 1900, roughly 28,000 emigrants traveled to the American West Coast directly from Japan. Up until 1910 the Japanese American community in the continent was mostly comprised of young men who came to work in lumber mills, coalmines, and fish canneries of the Northwest. Social life for this young male population revolved around drinking and gambling. The Japanese women who migrated were few in number. American immigration statistics estimate that roughly 1,000 Japanese females arrived in the United States between 1861 and 1900. A majority of the initial female population was brought over to work as prostitutes, although some women came as independent migrants. By 1898 there were 161 Japanese women working as prostitutes in Japanese settlements along the West Coast. Both *Issei* men and women could be

found dispersed in states throughout the West Coast including California, Washington, Montana, Oregon, and Idaho.

Early Issei Community

By 1900, Issei men and women on the American continent lived in migrant labor camps and followed crops up and down the West Coast. Only a decade later, Japanese were the largest ethnic group among agricultural workers in both California and Hawaii. By the 1920s they eventually moved into settled positions as owners and managers of farms.

As Issei men settled down as farmers, they sent for their wives or arranged for “picture brides” to join them. These arranged marriages set up partnerships between Issei men and women who knew each other only from photographs. A man seeking a wife would send a photograph of himself back to Japan where a go-between would seek a suitable wife based on factors such as health, social class, and family background. The picture marriage was a way for Issei men to marry and raise a family in Hawaii or the continental United States without the expense of returning to Japan. By 1911 women made up half of all Japanese migrants to the continental United States. By 1920 there were 22,193 married Issei women in America. As in the Hawaiian Islands, women had to juggle working besides their husbands in the field, and also managing household duties.

Issei in urban areas initially worked as hired laborers and domestic servants. Just as their Issei counterparts in rural areas moved into positions of management and ownership, those in urban areas slowly moved into small-scale businesses. Ironically, discrimination against Japanese by labor unions and employers forced the Issei into small-business ownership. Los Angeles and Seattle proved to be centers for Issei entrepreneurship, but “Japan Towns” or *nihonmachi*s, could be found in many cities along the West Coast. The Issei worked together to launch their businesses, often relying on their *kenjinkai*, or network of people from the same prefecture (*ken*), for financial support. For these first-generation immigrants, the *kenjinkai* was the foundation of social organization and shaped business opportunities, marriages, and community.

Japanese Americans also formed and maintained ties around religious institutions. Buddhist temples and Protestant churches brought people together from different prefectures, and served as centers of activity and offered social welfare services. The first Buddhist temples were established in Hawaii during the 1890s and were followed on the continent in 1898. Many Issei were also members of Protestant churches, and membership offered them a connection to the world outside of their ethnic community. Women were often very active in religious organizations as it provided them with opportunities to network and socialize outside of the home.

Anti-Japanese Movement

By 1924, roughly 200,000 Japanese had migrated to the Hawaiian Islands and 180,000 to the continental United States. By this time, anti-Asian legislation had a long history in the United States: since the passage of the 1790 Naturalization Act that limited naturalized citizenship only for whites, court cases and federal laws defined Asian immigrants as, “aliens ineligible to citizenship,” a category from which other forms of discrimination stemmed. One of the first examples of institutionalized anti-Japanese sentiment occurred in October 1906 when the San Francisco School Board issued an order that regulated children of Japanese descent to segregated schools. Although this was largely a symbolic gesture, because there were relatively few Japanese elementary-aged children in school at the time, the order angered the Meiji government. Diplomatic negotiations ensued and as a result, the Gentlemen’s Agreement of 1907–1908 was negotiated between the United States and Japan. According to the Agreement, Japanese children would be not be sent to segregated schools in exchange for a limit placed on Japanese immigration, which reduced the pool of eligible migrants to non-laborers or those coming to be reunited with family members. Movement between Hawaii and the continental United States was also banned.

In 1913, in reaction to the growing number of Issei agriculturalists on the West Coast, the California legislature passed a law that barred “aliens ineligible for citizenship” from owning property in the state and

limited the lease of agricultural property to no more than three years. This effectively banned Issei from owning land in the state of California. This law, known as the Alien Land Law, was also passed in several other states including Washington and Arizona. Despite this legal setback, the Issei found ways to work around the law, and placed land under the names of their second-generation (Nisei) American-born children.

In the early decades of the twentieth century anti-Japanese sentiment continued to grow on the West Coast and spread across the United States. The large number of Japanese picture brides that arrived in Hawaii and the West Coast and the resultant increasing numbers of second-generation Japanese American citizens became a major point of contention in the anti-Japanese movement. Exclusionists claimed that the large numbers of Japanese immigrant women allowed into the West Coast violated the spirit of the Gentlemen's Agreement. As a result, the Meiji government ended the "picture bride era" on March 1, 1920, when it officially stopped issuing passports to these women. At the time that picture bride emigration was banned, roughly 24,000 single Issei men remained on the continental United States. For most of these men, the end of the picture bride era sentenced them to a life of bachelorhood.

In 1924, Congress passed an immigration law that severely restricted the number of people who could enter the country. Although the new law set quotas for most nationalities, there were none set for Japan or any other nations whose peoples were "ineligible for citizenship." The 1924 Immigration Act effectively halted Japanese emigration to the United States. The law remained enforced until the passing of the 1952 McCarran-Walter Act, which granted Japanese an immigration quota of 185 persons a year and allowed Issei to be naturalized.

World War II Incarceration

Perhaps the greatest episode of racially motivated legislation against the Japanese American community was the 1942 forced incarceration of over 120,000 Japanese Americans, of which over two-thirds were U.S.-born American citizens. Within hours of the bombing

of Pearl Harbor on December 7, 1941, arresting squads set out throughout Honolulu and other areas of Hawaii, as well as Japanese American communities in the continental United States, and forcibly removed Japanese and Japanese Americans from their families and homes. This group of people, which included Japanese language teachers, consular officials, fishermen, and Buddhist priests, were sent to detention camps where they were held indefinitely. The sudden arrest of the Issei leaders left the Japanese American community in chaos.

On February 19, 1942, President Franklin Roosevelt issued Executive Order 9066 (EO 9066), which provided the initial authority for the mass incarceration of all Japanese immigrants and Japanese American citizens living in designated areas of Arizona, California, Oregon, and Washington. EO 9066 did not affect the few thousand Japanese Americans living on the East Coast. Interestingly, though, EO 9066 did affect Japanese living in other parts of the Americas: roughly 2,000 citizens and residents of Japanese ancestry were arrested from 13 Latin American countries and interned in the camps by the United States. In Hawaii, the Japanese who were arrested in the initial hours following the attack on Pearl Harbor were placed in one of the temporary holding camps across the island chain. On December 9, 1941, Sand Island Detention Center on Honolulu opened and soon became the camp that all Hawaii-based internees passed through. Beginning in February 1942, Sand Island internees began to be transferred to internment camps in the continental United States. Later that same year, dependent family members of the interned men were given the "opportunity" to join their husbands/fathers/brothers in internment camps. Over 1,000 dependent family members entered internment camps through this process. On March 1, 1943, Sand Island Detention Center was closed and the remaining internees were transferred to the Honouliuli Camp located in central Oahu.

Although the forced removal of Japanese and Japanese Americans was carried out by the U.S. Army, a separate wartime agency, the War Relocation Authority (WRA), operated the 16 assembly centers and 10 concentration camps located in sparsely populated parts of California, Arizona, Idaho, Wyoming, Colorado, Utah, and Arkansas. These camps were:

Amache, Colorado; Gila River, Arizona; Heart Mountain, Wyoming; Jerome, Arkansas; Manzanar, California; Minidoka, Idaho; Poston, Arizona; Rohwer, Arkansas; Topaz, Utah; and Tule Lake, California. The last of the internment camps closed in March 1946.

Legal Challenges to Internment: Yasui, Hirabayashi, Korematsu, and Endo Cases

A few Japanese Americans challenged the government over the legality of the internment unsuccessfully in the courts. Four separate cases reached the U.S. Supreme Court between the years 1943 and 1944. In each of these cases, the Supreme Court avoided ruling on the constitutionality of detaining American citizens based on race. The first of the four cases, *Yasui v. United States*, came before the Supreme Court in 1943. Immediately following the attack on Pearl Harbor, Minoru Yasui, an American citizen and attorney, attempted to voluntarily enlist in the U.S. Army. He was rejected on racial grounds. A few months later, after his father was forced into an internment camp, Yasui purposefully sought arrest to challenge the curfew law placed on all Japanese and Japanese Americans. A lower court ruled that the curfew law was unconstitutional when applied to American citizens but deemed that this did not apply to Yasui because he had forfeited his citizenship by working for the Japanese consulate in Chicago. The Supreme Court reversed this ruling and rejected the proposition that Yasui's employment with the Japanese consulate forfeited his citizenship. The court maintained that the curfew was constitutional, however, and sent the case back to a lower court for sentencing. Yasui served nine months in jail for breaking the curfew law.

On May 16, 1942, Gordon Hirabayashi, a 24-year-old University of Washington student, went to the local FBI office to challenge EO 9066. Although he was imprisoned the charges against Hirabayashi were amended to include violation of the curfew order. A lower court found him guilty on both charges and sentenced him to 90 days in prison. Hirabayashi appealed the verdict and appeared before the court of appeals on February 19, 1943, exactly one year after EO 9066. Although the court avoided issuing opinions on the

legality of evacuation, it ruled unanimously that Congress had the right to make and enforce curfew laws.

The legality of the evacuation order was finally addressed by the Supreme Court in the 1944 case, *Korematsu v. United States*. After losing his job as a welder in Oakland, California because the Boiler Makers Union expelled all Japanese American members after the attack on Pearl Harbor, Fred Korematsu decided to marry his Italian American fiancée, Ida Boitano, and move to the Midwest. On March 18, 1942, and March 24, 1942, Korematsu underwent plastic surgery on his eyes and nose to disguise his racial identity and blend in with European Americans. Despite his claim of Spanish-Hawaiian ancestry, authorities arrested him for violating the exclusion order. A lower court found him guilty and passed a sentence of five years probation. Korematsu was then forced at gunpoint to join his family at the Tanforan Assembly Center. The Supreme Court subsequently upheld Korematsu's conviction on the grounds that the evacuation order was made out of "military necessity."

On December 19, 1944, the Supreme Court ruled unanimously that it was unlawful to detain or otherwise limit the freedom of a law-abiding citizen. The case of *Ex Parte Endo*, began in 1942, when the Japanese American Citizens League (JACL) decided to oppose the firing of California's Japanese American state employees. The JACL also decided to challenge the legality of racial detention and toward that end brought suit against Milton Eisenhower, the director of the federal War Relocation Authority. The case was brought in the name of Mitsuye Endo, a second-generation Japanese American and former employee of the California Department of Motor Vehicles. Endo had never been to Japan, did not speak Japanese, and had a brother in the U.S. Army. Eisenhower and the WRA were challenged to show why Endo was being detained, because she was not a threat to national security. A day before the official ruling in the case was to be handed down, federal officials announced that detainees not considered "disloyal," were free to leave the internment camps. Although Endo and the JACL won their case, the Supreme Court once again failed to address the central question of the constitutionality of detention by race.

Effects of Internment

One of the changes that internment brought to the Japanese American community was a breakdown in family life and organization. Issei patriarchs lost their place as the family provider whereas women, freed from most household chores, became active in camp organizations and worked in a variety of jobs. Meals were served at large communal mess halls and inmates often ate in social groups rather than with family members. Because of their position as American citizens and command of the English language, leadership positions in camp shifted to the Nisei. WRA officials often assigned the Nisei to positions as teachers, nurses, cooks, and firefighters. In 1943, Japanese American male citizens were encouraged to enlist in the U.S. Army, and in 1944 many were actually drafted for military service from behind barbed wire. To facilitate this process, the WRA and War Department launched a program designed to separate the "loyal" internees from the "disloyal." The War Department created a questionnaire entitled, "Statement of Japanese Ancestry." Questions 27 and 28 of the survey proved problematic. Question 27 read: "Are you willing to serve in the armed forces of the United States on combat duty wherever ordered?" Question 28 asked: "Will you swear unqualified allegiance to the United States of America and faithfully defend the United States from any or all attack by foreign or domestic forces and forswear any allegiance or obedience to the Japanese Emperor, or any other foreign government, power or organization?" As if asking a group of people incarcerated solely for their racial background to volunteer for the armed forces was not offensive enough, a "yes" to Question 28 implied that the Nisei once had an allegiance to Japan and its emperor.

Although over 1,600 men volunteered to serve in the army from the camps, numerous other male and female Nisei chose to either give "no" answers or refuse to answer the "loyalty questionnaire," as a means to protest the mass removal and detention. This group was stigmatized as being "disloyal" and labeled "troublemakers" by the WRA. They were segregated and sent to the Tule Lake concentration camp, where reaction against registration through the loyalty

questionnaire resulted in massive resistance. Out of frustration with the way that their human rights were violated, many Nisei renounced their American citizenship and expatriated to Japan.

100th Battalion/442nd RCT

Positive answers to the questions made male Nisei of draft age eligible for service in the army. Besides those culled from the internment camps, more than 20,000 other Nisei served in the racially segregated 100th Battalion and 442nd Regimental Combat Team during World War II. At the time of the Pearl Harbor attack more than 2,000 Nisei in Hawaii were enlisted in the U.S. Army and Hawaii Territorial Guard. Although they were taken off active duty on account of their racial background, upon the recommendation of General Delos Emmons, they were taken to Oakland, California, where they were activated as the 100th Infantry Battalion on June 12, 1942. They would then spend the next six months training at Camp McCoy, Wisconsin.

With the claim that, "Americanism is not, and never was, a matter of race or ancestry," President Roosevelt announced the formation of the 442nd Regimental Combat Team on February 1, 1943. Immediately upon the announcement of the 442nd, nearly 10,000 Hawaii Nisei volunteered and over 2,600 were accepted for induction. The 442nd arrived at Camp Shelby in March 1943 and began 10 months of segregated training—a period far longer than the 4 to 6 months of training that most troops received at the time. By the time they left Camp Shelby the unit had taken the motto, "Go For Broke!" On June 2, 1944 they arrived in Naples and met up with the 100th Battalion, which became the new 1st Battalion of the 442nd.

Although many of their parents, children, and wives were imprisoned in internment camps, members of the 442nd fought on the front lines of Italy and France. In late October 1944, the 442nd was ordered to rescue members of the 141st Regiment's 1st Battalion, which was caught behind enemy lines. Although the daring rescue of the "Lost Battalion" has become legendary, the successful rescue resulted in 800 Nisei casualties to save 211 soldiers. In 225 days of combat,

the 442nd Regimental Combat Team/100th Battalion suffered the highest casualty rate and is the most highly decorated unit of its size in American military history. In the years following World War II, the 442nd RCT/100th Battalion's sacrifice and bravery was repeatedly cited in campaigns to overturn the Alien Land Laws still in effect and other discriminatory legislation.

Relocation, Resettlement, and Redress

As early as the summer of 1942, some Nisei were released to do farm work or attend college in the Midwest and East Coast. Other Nisei were released to find work in places such as Minnesota, Denver, and New Jersey. Outside of the camps Issei and Nisei often encountered "No Japs Wanted" signs and with only their labor and \$25 given to them by the WRA, they were forced to start their lives again.

One of the most significant consequences of the war for Japanese Americans living on the continental United States was the government's policy of "relocation" and "resettlement." Both of these terms refer to the WRA's policy of spreading the Issei and Nisei population away from the West Coast so as to avoid their concentration in Japantowns and ethnic enclaves. By July 1942, even as people were still entering the internment camps, the WRA was instituting policies for "leave" and permanent "resettlement" in the Midwest and on the East Coast. Although many Issei and Nisei did not want to leave camp for places they did not know, the most popular destinations for those who did was Denver and Salt Lake City. These two areas were closest to the West Coast and had supported Japanese American communities for some time. When Japanese and Japanese Americans were allowed to return to the West Coast in 1945, many of these resettlers left the Midwest to return to their homes. Although the Issei and Nisei population in areas of resettlement declined following the "reopening" of the West Coast, Japanese American communities can still be found in these areas today.

After the end of the war in 1945, a much different Japanese American community emerged from the internment. In the camps leadership had shifted from the Issei to the Nisei generation, and the task of

community rebuilding fell to the latter. When they returned, Japanese Americans tended to settle in urban and suburban neighborhoods. Although Japanese Americans clustered together in ethnic enclaves in the years prior to World War II, the population became much more geographically dispersed in the postwar years. Second- and third-generation Japanese Americans organized around churches, festivals, sports, and political organizations, and together they worked to rebuild their war-ravaged communities, which now extended beyond Japantowns and into outlying suburban areas. As an ethnic group, Nisei achieved middle-class status and gave way to the *Sansei* (third generation) who would continue this trend of economic mobility, educational attainment, and geographic dispersal.

Several of Japanese American political organizations, including the Japanese American Citizens League (JACL), National Coalition for Redress and Reparations (NCR), and National Council for Japanese American Redress (NCJAR), spearheaded the massive movement for redress and reparations. This movement, which sought to obtain an apology and compensation from the United States government for its wrongful wartime incarceration, proved to be a force that invigorated the Japanese American community and linked generations together. The 1981 hearings of the Commission on the Wartime Relocation and Internment of Civilians served as a cathartic event for those imprisoned in the camps. Over 700 witnesses testified, many of who spoke in public about internment for the first time. In 1988, President Ronald Regan signed the Civil Liberties Act, which provided redress of \$20,000 for each surviving detainee. Over two years later, on October 9, 1990, the first redress payments were made to the oldest living survivors of internment. The Redress Movement sparked an interest in the history of their community and ancestors in younger Japanese American generations. In the early 1970s Sansei activists began making a yearly memorial pilgrimage to Manzanar. The pilgrimage has since become an annual event, and today many young Yonsei (fourth generation) and Gosei (fifth generation) make the journey.

The history of Japanese Americans is at once harsh and unremitting, and full of examples of outright

prejudice that may seem unbelievable to today's generations. However, despite the challenges they faced when working on the sugar plantations of Hawaii or imprisoned in the internment camps during World War II, Japanese immigrants and their American offspring have managed to make a life and home here in the United States. Although Japanese American history contains many examples of sorrow and hardship, it also offers themes of resistance, tenacity, and success.

The 2010 census recorded 1.3 million Japanese Americans, including mixed-race individuals.

Christen Sasaki

See also Ex Parte Mitsuye Endo (1944); Japan Bashing; Japanese American Baseball; Japanese American Christianity; Japanese American Citizens League (JACL); Japanese American Communities (Contemporary); Japanese American Community Organizations (Historical); Japanese American Transnational Families; Japanese American Women in the 1930s; Japanese Americans in Hawaii; Japanese Americans in Japan; Japanese Exclusion; Japanese Farm Workers in America; Japanese Immigrant Press; Japanese Immigrant Women; Japanese Language in Asian American Studies; Japanese Transnational Identity; Japanese War Brides; Korematsu v. United States (1945); Korematsu, Hirabayashi, and Yasui Coram Nobis Cases; Manzanar Children's Village (1942–1945); Manzanar Riot (1942); Shin-Issei/Shin-Nisei Identity

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Japanese Americans in Hawaii

On June 19, 1868, 148 individuals arrived in Hawaii onboard the *Scioto*. These first Japanese immigrants to the Hawaiian Islands were recruited from the urban areas of Yokohama and Edo by Eugene M. Reed, an American businessman who represented sugar interests and also served as consul general for the Kingdom of Hawaii. Because they arrived during the first of the Meiji era of imperial rule, the group came to be known as the *gannenmono*, or “first year people.” The *gannenmono* were recruited to work as field laborers in Hawaii's burgeoning sugar industry.

Once on the sugar plantations, the laborers were subjected to virtual slavelike working and living conditions. Within a month of their arrival in the Hawaiian Islands, the *gannenmono* filed a complaint with the Bureau of Immigration in Hawaii. The Meiji government was alarmed by this situation and quickly sent government officials to investigate the charges of mistreatment. After three years only 90 individuals remained in the islands. This group created the foundation for the first permanent Japanese American community in Hawaii. Because of the mistreatment of the initial emigrants, there was no organized immigration of Japanese to the Hawaiian Kingdom for the next 13 years.

Beginning in 1885, the Meiji government declared large-scale immigration legal for the first time in two centuries. On Sunday, February 8, 1885, the *City of Tokyo* arrived in Honolulu with the first scheduled shipment of *kanyaku imin*, or immigrants, who came under government contracts. The group consisted of 676 men, 159 women, and 108 children. During the period of government-sponsored migration, which spanned nine years from 1885 to 1894, thousands of Japanese migrants arrived in Hawaii. Most migrants to Hawaii came from agricultural regions located in the southwestern prefectures of Japan, including Hiroshima, Yamaguchi, and Kanagawa. By the end of the contract-labor period in 1894, more than 30,000 Japanese in 26 shiploads migrated to the Hawaiian Kingdom. Beginning in 1894 the Meiji government turned the business of emigration over to private companies licensed to recruit laborers. This marked the beginning of the *jiyu imin*, or “free migrant” period, which ended



October 23, 2017

Mr. Daniel Dromm, Member
City Council, City of New York
250 Broadway, 18th Floor
New York, NY 10007

Dear Councilman Dromm:

It is with great enthusiasm that the Tule Lake Committee writes to support Resolution 792, and your efforts to establish January 30 as Fred Korematsu Day, in recognition of the lasting impact Fred Korematsu had on the nation and the world.

The Tule Lake Committee is a non-profit organization composed of survivors of the WWII incarceration of Japanese Americans at the Tule Lake concentration camp, and their descendants. Tule Lake was the only one of the ten concentration camps converted to a maximum-security prison used to punish 12,000 Japanese Americans who protested the injustice of their mass incarceration. We organize pilgrimages to the Tule Lake site to remember, to mourn and to heal, and we serve as advocates to preserve Tule Lake's unique history about the thousands of imprisoned Japanese Americans who challenged America to live up to its own democratic principles.

Fred Korematsu's story of courage in protesting the wartime incarceration has special resonance to those of us working to preserve Tule Lake. His actions are an inspiration, not just to us, but to all people who cherish the dream of American democracy and equality and justice.

With present day pressures to exclude immigrants and refugees, to demonize people of color and punish people based on gender differences, we are grateful the City Council is considering the recognition of someone who spoke out for justice. The political gesture of recognizing Fred Korematsu and creating a day to honor him reminds us not to allow race prejudice or political hysteria to destroy us.

Thank you for your leadership and your efforts to honor Fred Korematsu's legacy.

Sincerely yours,

Ken Nomiyama
On behalf of the Tule Lake Committee

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Asian/Pacific Bar Association of Sacramento
P.O. Box 2215, Metro Station, Sacramento, CA 95812-2215

October 24, 2017

Via Electronic Mail: dromm@council.nyc.gov; smaguire@council.nyc.gov

The Honorable Daniel Dromm
250 Broadway, Suite 1826
New York, NY 10007

Re: Fred T. Korematsu Day

Dear Council Member Dromm:

The Asian/Pacific Bar Association of Sacramento ("ABAS") writes in support of Resolution 792. As a non-profit legal organization created to foster the exchange of ideas and provide service to the general and local communities ABAS is concerned about protecting people's civil and human rights.

ABAS supports the establishment of Fred T. Korematsu Day (of Civil Liberties and the Constitution) on January 30th of each year as provided by Resolution 792. Fred T. Korematsu was awarded the Presidential Medal of Freedom in 1998 for courageously defying the incarceration of 120,000 Japanese Americans during World War II. The establishment of this day is not just about the accomplishments or actions of one man, but is also a highly symbolic acknowledgement of how racially motivated policies and the infringement of our basic civil and human rights are morally wrong. This resolution is not just about one community but extends to all marginalized communities who are easily targeted when the political tide turns against them.

For these reasons, ABAS supports Resolution 792.

Sincerely,

Sophia Kwan
ABAS President
skwan@seyfarth.com

We Are Fred Korematsu



JANUARY 26, 2017

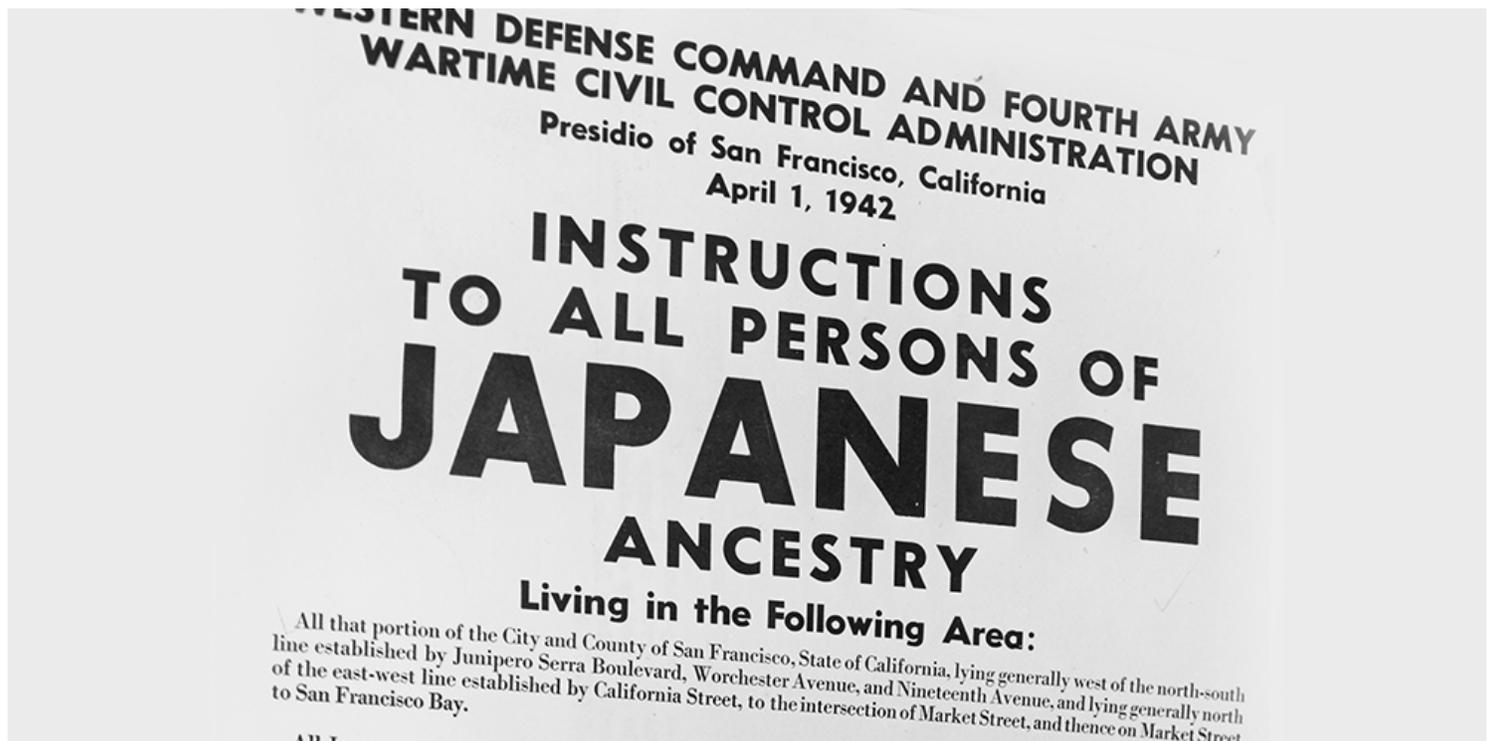
"[Japanese residents] are organized and ready for concerted action. . . . The very fact that no sabotage has taken place to date is a disturbing and confirming indication that such action will be taken." —Lieutenant General John L. DeWitt, February 1942

"Hey, I watched when the World Trade Center came tumbling down. And I watched in Jersey City, New Jersey, where thousands and thousands of people were cheering as that building was coming down. Thousands of people were cheering." —Donald J. Trump, November 2015

January 30 is Fred Korematsu Day of Civil Liberties and the Constitution. It is recognized by legislation in the states of California, Hawaii, Virginia, and Florida, and recognized by proclamation in Utah, Illinois, Georgia, South Carolina, Pennsylvania, and Michigan.

Fred Korematsu was a U.S. citizen, born in California, of Japanese immigrants. When he was 23 years old, in the opening months of U.S. involvement in World War II, he ignored and then legally challenged the eviction orders that would eventually incarcerate into camps nearly 120,000 Nikkei (Japanese immigrants and their descendants) living on the West Coast. Two-thirds of these Nikkei were American-born.

The executive order that Fred Korematsu ignored—Executive Order 9066, which was signed on February 19, 1942, by President Franklin Roosevelt—authorized Secretary of War Henry L. Stimson to prescribe certain areas as military zones, clearing the way for the evacuation of Japanese Americans, German-Americans, and Italian-Americans. But the authority granted was only used to round up Nikkei families in a wholesale manner.



EXCLUSION ORDER POSTED AT FIRST AND FRONT STREETS IN SAN FRANCISCO DIRECTING REMOVAL OF PERSONS OF JAPANESE ANCESTRY FROM THE FIRST SECTION OF THE CITY TO BE AFFECTED BY EVACUATION. SOURCE: WIKIMEDIA COMMONS.

It is worth noting that, while the U.S. Supreme Court upheld the constitutionality of the executive order, Korematsu's conviction was vacated decades later, when it was found that the government had lied to the court about the threats posed by Nikkei.

Words Matter

In making its case, the U.S. government relied on tortured logic to justify Executive Order 9066. Lieutenant General John L. DeWitt, who advised Secretary Stimson, put forth that the fact no sabotage by Nikkei had yet been found proved just how sneaky the Japanese were. The order itself relied on coded words: Nikkei were "evacuated" just as we do for a natural disaster. They were sent to "assembly centers" and "relocation centers."

The term "internment" is often used in reference to Executive Order 9066, but it is a mischaracterization. Internment commonly refers to the legal confinement within prescribed limits, as a prisoner—prisoners of war, enemy aliens, or combat troops who take refuge in a neutral country—and not to the mass forced removal and incarceration of a people based solely on their ethnicity. Further, the incarceration included U.S. citizens, many of whom were elderly, young children, or infants. Of the nearly 120,000 Nikkei who had been rounded up, perhaps 8,000 were legally interned. The others were incarcerated without due process.

If they were not actually internment camps, then, what should they have been called? While the assembly and relocation centers the U.S. government employed during World War II were in no way equivalent to the Nazi death camps, they served much of the same purposes. A concentration camp is defined to be "a place in which large numbers of people, especially political prisoners or members of persecuted minorities, are deliberately imprisoned in a relatively small area with inadequate facilities." In fact, President Roosevelt chose to call them concentration camps. So too do many people who lived through the experience, and their descendants now also use this term.

No Harm, No Foul

Since the conclusion of World War II, U.S. presidents have taken steps to acknowledge America's mistake, and to try and repair the harm done. President Gerald Ford issued a formal apology to the internees, saying their incarceration was a "setback to fundamental American principles," and rescinded Executive Order 9066 on February 19, 1976. (Note that, after seventy-five years, it still remains as a Supreme Court precedent, as no other case has come forward from which to challenge its constitutionality.)

The Civil Liberties Act of 1988, signed into law by President Ronald Reagan, authorized an apology and reparations of \$20,000 each for the 80,000 or so Japanese Americans who were interned during the war and still alive. While these gestures were appreciated, they could not make up for over two years of incarceration, and the amount awarded pales in comparison to the actual financial losses, estimated to be billions of dollars.

Divided and Conquered

These reexaminations of Executive Order 9066 and discussions of apologies and reparations often focus on the individuals—whether it is Fred Korematsu’s resistance, or other personal stories of internment. What is often overlooked is the impact the order had on the unity of the Japanese American community as a whole, as each and all were questioned about where their loyalties lay.

What is often overlooked is the impact the order had on the unity of the Japanese American community as a whole, as each and all were questioned about where their loyalties lay.

In early 1943, the War Relocation Authority administered a so-called loyalty questionnaire to all incarcerated adults that tore the community apart. Question 27, asking if respondents were willing to serve in combat duty wherever ordered, and question 28, asking if they swore allegiance to the United States and renounced allegiance to the Emperor of Japan, were critical. Male respondents who answered negatively to both questions—approximately 20,000 did—were labeled “No-No Boys.” These No-No Boys were shunned by the majority of detainees, who had answered Yes-Yes. Some of those answering “No” were only expressing their anger at being required to serve a country that had locked them up behind barbed wire. Others did so because they resented being asked to forswear allegiance to an emperor that they, as U.S. citizens, had never had any allegiance to.

Executive Order 9066 also created a dilemma for Japanese-American political organizations. The Japanese American Citizens League (JACL), which was formed in 1929, was an active advocate for the rights of its membership, especially in California and Washington State. But rather than fight the incarceration, the JACL acquiesced, and even aided in the round up community leaders who were suspected of being disloyal, and urged harsh treatment of No-No Boys.

Executive Order 9066 continued to divide the Japanese community even after the war. S. I. Hayakawa, a former president of San Francisco State University and former U.S. Senator from California, was a notable voice arguing against reparations. Hayakawa was not incarcerated during the war, because he lived in Illinois at the time, but he believed that Nikkei actually benefited from incarceration, and that the relocation was done for their own safety.

I Am Korematsu

After Trump refused to recognize CNN’s Jim Acosta at the pre-inaugural press conference on January 11, 2017—because CNN had produced a piece that Trump disagreed with—*On The Media*’s Bob Garfield chastised reporters for not standing up for their colleague. Garfield said the press corps should have responded in “I am Spartacus” unity, instead of stepping over Acosta’s body in their own self-interest to get their questions answered. The point being that Trump’s strategy worked—by identifying Acosta as a “bad actor,” it divided the press.

President Trump's recent statements on immigration might seem to be set on fracturing the unity of immigrant communities in the same way. And by slowing the spigot on immigration to pit groups against each other, using false words to paint Muslims as enemy invaders, by questioning the loyalty of Muslim Americans, he is treading in the well-worn path that led to Executive Order 9066.

We are all Fred Korematsu.

Fred Korematsu Day celebrates resistance at great cost during a sad chapter in American history. To honor this sacrifice, let us speak out against divisiveness and falsehoods and defend civil liberties for all, regardless of religious faith or country of origin. We are all Fred Korematsu.

COVER PHOTO: KOREMATSU CORAM NOBIS PRESS CONFERENCE, FLICKR.



Patricia Koza, Chief Operating Officer

Pat Koza is chief operating officer at The Century Foundation. She is on the Board of Directors of the Nonprofit Coordinating Committee of NY, a member of the U.S.-Japan Council, and on the Steering Committee of the Asian Women Giving Circle.

Janet Komoto
Intermountain District Governor
Japanese American Citizens League
P O Box 143
Ontario OR 97914

October 24, 2017

Sebastian Maguire
Legislative Director & Counsel
Office of NYC Council Member Daniel Dromm
250 Broadway, 18th Floor
New York NY 10007

Dear Mr. Maguire:

I am writing in support of Resolution Number 792, which would establish January 30 annually as Fred T. Korematsu Day.

As you know, Mr. Korematsu was an American civil rights activist, a key figure in Japanese American history, who looms as large as Dr. Martin Luther King Jr. does in American history.

Several states have recognized or are in the process of recognizing January 30 as Fred T. Korematsu Day.

The Japanese American community would be so honored if the City of New York would pass this Resolution and grant Mr. Korematsu his rightful place in American history.

Sincerely,

Janet Komoto

YOSHINORI H. T. HIMEL

California Bar #66194
372 Florin Road #191
Sacramento, California 95831
Telephone: (916) 418-4567
Fax: (916) 721-2347
email: YHimel@LawRonin.com

October 24, 2017

By email to smaguire@council.nyc.gov

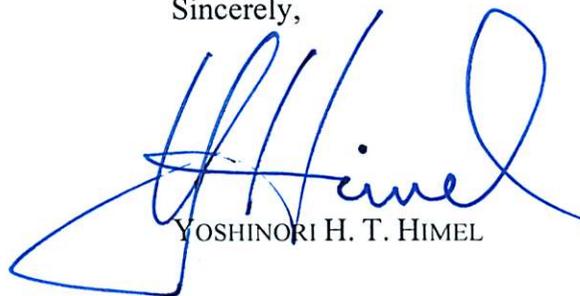
Sebastian Maguire, Esq.
Legislative Director and Counsel
Office of NYC Council Member Daniel Dromm
250 Broadway, 18th Floor
New York, NY 10007

Re: Resolution No. 792

Dear Mr. Maguire:

The Council is to be commended for exercising its authority to establish January 30 of each year as the Fred T. Korematsu Day of Civil Liberties and the Constitution. Fred Korematsu represents the courage to dissent in the face of manifest injustice, and the persistence to dedicate one's life to righting injustice. Taking this action simply is the right thing to do.

Sincerely,



YOSHINORI H. T. HIMEL

Japanese American Citizens League – San Jose Chapter

565 North Fifth Street
San Jose, CA 95112
(408) 295-1250
www.sanjosejacl.org

October 24, 2017

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Re: Support for Resolution 792

New York City Council:

Korematsu vs. the United States remains a landmark case in the legal world and Fred T. Korematsu is a symbol of the fight for civil liberties against overwhelming odds. His fight against the constitutionality of the unjust incarceration of over 120,000 persons based on their Japanese ancestry ultimately led to his conviction for evading incarceration being vacated. However, the constitutionality question was never resolved; so his case remains relevant today.

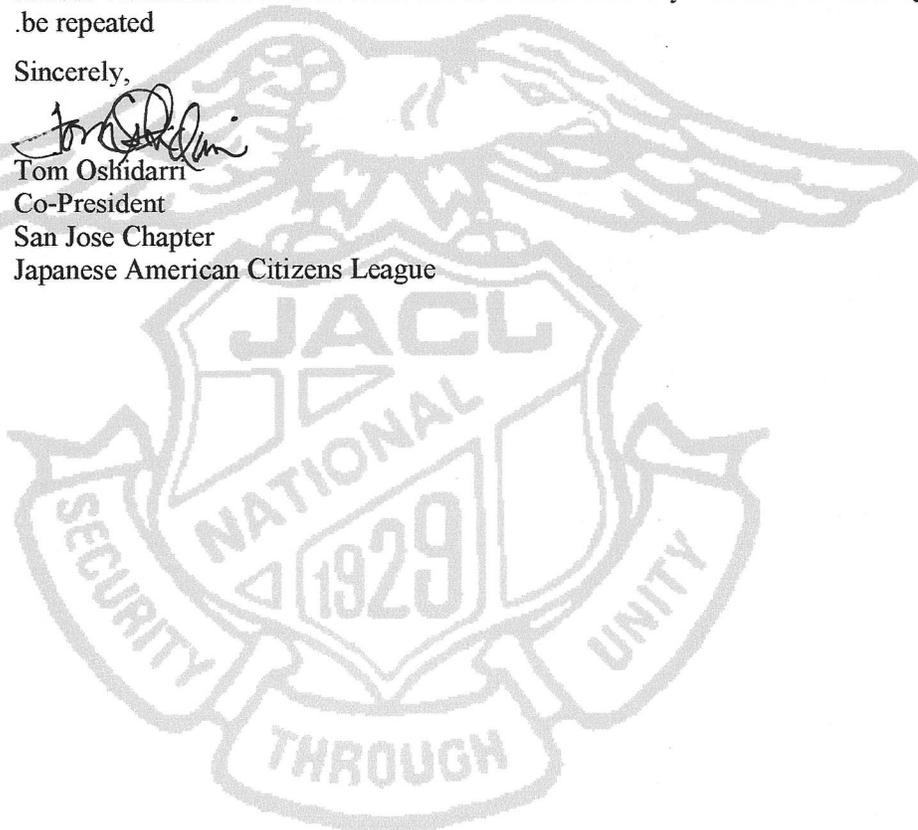
Though never ruled unconstitutional, the incarceration of Japanese Americans was acknowledged by the U.S. government as being wrong, and the Civil Liberties Act of 1988 called for a formal apology and a reparations payment \$20,000 to each survivor. A Fred Korematsu Day would be a great reminder of one of the most serious violations of civil liberties in our Nation's history that should never again be repeated.

Sincerely,



Tom Oshidari

Co-President
San Jose Chapter
Japanese American Citizens League





S A C R A M E N T O J A C L
J a p a n e s e A m e r i c a n C i t i z e n s L e a g u e

Sent via email to smaguire@councilnyc.gov

Oct. 24, 2017

Dear Councilmembers for the City of New York,

I am the President of the Sacramento, California Chapter of the Japanese American Citizens League (JACL). Our chapter has been notified that you will be considering a proposal to establish a Fred T. Korematsu Day for the city of New York. I am writing in support of the proposal and to let the people of New York City know why it is so important, not only for the Japanese American Community, but for all Americans who value their constitutional rights.

You have probably already have been told how Fred Korematsu challenged Executive Order 9066 which required that all persons of Japanese Ancestry, regardless of their citizenship status, leave the west coast and be incarcerated in sub-standard housing in remote areas of the United States. Fred was eventually arrested and convicted in Federal Court. Decades later, it was discovered that before Pearl Harbor, President Roosevelt and others in Washington were told by both the FBI and the Dept. of the Navy that the Japanese American community did not pose any threat to our country, and that overall, they were strongly loyal to the United States . In short, the federal government and the President lied to the Supreme Court in order to justify the removal of 120,000 people from their homes, schools, and businesses, based only on their ancestral heritage.

As a docent at a local museum, I talk with schoolchildren about the Executive Order 9066, and I can attest to how Fred's story resonates with students, especially those who feel marginalized by the current political discourse about race, religion, and immigration. Having an official Fred Korematsu Day will encourage conversation about civil liberties and our rights of due process and equal protection of the laws. Considering the current public discourse, it is more important than ever.

Thank you for considering the establishment of a Fred Korematsu Day in New York City.

Sincerely,

Janice Yamaoka Luszczak
Japanese American Citizens League
Sacramento Chapter



October 25, 2017

Mr. Daniel Dromm, Member
New York City Council
250 Broadway, 18th Floor
New York NY 10007

Dear Danny:

Queens Community House enthusiastically supports the adoption of Council Resolution 792, which will establish January 30th as Fred T. Korematsu Day in New York City.

Queens Community House is a multi-site, community-based settlement house serving low-income, largely immigrant families with 29 program sites in 14 neighborhoods across Queens. We are committed to breaking down cultural, linguistic, and other barriers, organizing with neighbors around shared needs and interests, and helping them to participate in the creation of a society that it is reflective of their ideals and aspirations.

New York City is a shining example of how people from different nationalities, races, faiths, and economic backgrounds can join together to create strong communities based on our common humanity and a shared desire for a better future. This attribute of our city – and our country – is a testament to the contribution and hard work of millions of immigrant Americans and their descendants, and yet we have often failed to collectively protect the rights and freedom due them as human beings and as fellow citizens. In this regard, the incarceration of Americans of Japanese descent during World War II stands as one of the more disgraceful acts in our national history.

Fortunately, our history also includes individuals such as Fred Korematsu. Korematsu's courage in standing up to the grave injustice being carried out by the US government – at great personal loss – has long been an inspiration to the Japanese American community. His name and his story deserve to be known by *all* Americans. Korematsu's example of fighting for what is fair and just, and for speaking out on behalf of the marginalized and scapegoated, is one that needs acclamation, especially at this moment when intolerance and xenophobia are so sadly on the rise in our country.

We applaud your efforts to recognize Fred Korematsu, and through him the thousands of his fellow citizens who have fought to ensure that this shameful occurrence will not be forgotten and, more importantly, shall never be repeated.

Sincerely,

A handwritten signature in black ink, appearing to read "Ben Thomases".

Ben Thomases
Executive Director

Queens Community House

108-25 62nd Drive, Forest Hills, NY 11375 Telephone: 718.592.5757 Facsimile: 718.592.2933 www.queenscommunityhouse.org

Subject: Resolution 792

Dear Mr Maguire,

As president of the San Fernando Valley Chapter of the Japanese American Citizens League I must add the support of our chapter to Resolution 792.

I spent two years, (Colorado) and my wife three and a half years (Arkansas), in World War II American concentration camps. Many years elapsed before our community overcame our government's rationalizations for this injustice, and after a ten year struggle, gained Redress in the form of an apology from our president and monetary compensation.

It is with disbelief and anger I hear politicians advocating the registering of Muslims, and others, as well as banning their entry into this country citing as precedent our forced internment.

Resisting injustice is particularly relevant in today's political climate: The gallantry of Fred Korematsu can be an inspiration to all Americans now, and in future generations.

Phil Shigekuni

Subject: Contra Costa JACL Supports Resolution 792

Dear Mr. Maguire and NY City Council Member, Mr. Daniel Dromm:

The Contra Costa JACL chapter is one the oldest and most active chapters in California. We are located in the East Bay where Fred Korematsu lived. In fact, a lot of our chapter members knew him. We recently had one of our middle schools renamed in honor of all that he did to protest and defy the Executive Order to incarcerate over 120,000 Japanese Americans.

Our collective movement with the City of El Cerrito and other Japanese American civic groups to educate people on the power of one man to raise awareness and fight a terrible injustice started with telling his story and continued by having events to memorialize what he did and most recently, resulted in the renaming of a middle school in El Cerrito.

The Contra Costa Chapter of the Japanese American Citizens League heartily supports Resolution 792. We cannot think of a better way to always remember those heros that stood up to our government and our society to not just sit down and take it, but to fight something that was terribly unjust and simply wrong. We thank the City of New York for considering the resolution and thank you, Mr. Dromm for sponsoring this important resolution. We send you our support and our very warmest wishes for success. We hope you will let us know how the vote goes.

With our gratitude and deep appreciation, Yoko Olsgaard President, Contra Costa JACL Board of Directors

Subject: Support for Korematsu Day in NYC

Dear Mr. McGuire,

I am writing you in support of Resolution 792, establishing a day of recognition for Fred Korematsu in NYC.

Mr Korematsu is a widely recognized Civil Rights icon in the API Civil Rights community, a Presidential Medal of Freedom recipient in 1998, and a symbol of how one person can make a difference.

James Duff
Tiffany Ikeda
Co-Presidents
Berkeley Chapter of the Japanese American Citizens League

Subject: Declare January 30th, Fred T. Korematsu Day (of Civil Liberties and the Constitution)

To NYC Council,

I support this bill that is to declare January 30th, as Fred T. Korematsu Day (of Civil Liberties and the Constitution). Fred Korematsu and his contribution to the civil liberty has been well known among Japanese - and Asian Americans. The action he took in 1942 was more than courageous, given the status he had and at the time of institutionalized racism. He stood up with a strong conviction that everyone needed to be treated under the constitution. This his conviction, courage and strength remind us of a golden rule, we want to treat others in the way I want to be treated. As such this resolution becomes very worthy. I'd like to see our kids and future generation of kids commemorate this day to learn from the past and not to make the same mistakes.

Thank you,
Emiko Nagano

Subject: Letter in support of declaring January 30th as Fred T. Korematsu Day.

Dear Mr. Maguire:

As I am unable to attend the hearing scheduled today, I, however, would like to convey my full support of the resolution (Res. No. 792) being presented, declaring January 30th as the Fred T. Korematsu Day of Civil Liberties and the Constitution. As a person affected by the incarceration of 120,000 Japanese and Japanese Americans into 10 incarceration camps across the country, you should know that I was born in the Tule Lake camp in August of 1943. I was shocked to learn when I was old enough to know where I was born with a birth certificate confirming it. How could we be a free and democratic society, if I hold a birth certificate from a "concentration" camp. Concentration camp is the appropriate use of the term (not Relocation) as we were surrounded by barbed wire and towers with guards with rifles! The Japanese American incarceration into concentration camps should not be confused with the Jewish Holocaust of deaths in concentration camps. The Jewish camps were death camps, a more appropriate term of which has been clarified by several scholars. Also, as an adult I continue to experience questions upon seeing my birth certificate as many do not know that the government enacted such an unjust order.

Without such heroes as Fred T. Korematsu, protesting and refusing to accept EO9066 to incarcerate himself, all should learn about this part of our history. He is our American hero for all to revere and as a model for future generations to know and learn from his experience. I believe all students from elementary schools onward must be aware of this history. Declaring a Fred T. Korematsu Day will be an invaluable addition to our US history!

And with the present administration ban on immigrants, it is very troubling and even further evidence to support heroes such as Fred T. Korematsu with a Fred T. Korematsu Day.

I look forward to a positive result of this hearing today, making January 30th Fred T. Korematsu Day, A Day we should as Americans be proud to honor from teachers, all institutions, organizations. and internationally as well.

Respectfully,

Theodora (Teddy) Yoshikami

Subject: Re: Establishing "Fred T Korematsu Day" in New York City

Hi Sebastian,

I did my research. Yes, I support that the Council of the City of New York establish January 30th as "Fred T Korematsu Day". My reason is mainly because F. Korematsu, as a young man in his twenties, was brave and strong enough to fight against the internment of Japanese American people. Not to go into depth, I learned that it was proven, through legal research, that the Japanese Americans were falsely accused of treason. In 1983 F. Korematsu's conviction was overturned by the Federal Court of San Francisco. In 1988 Congress passed a Civil Liberties Act declaring the internment was unjustified. In addition, in 2009 the Fred T. Korematsu Institute was established. For all these reasons, F. Korematsu deserves recognition, plus it would help straighten the civil rights for the Japanese American people of today.

Rita B Russo
I represent myself



JAPANESE AMERICAN CITIZENS LEAGUE

Masao Satow Building * 1765 Sutter Street * San Francisco, California 94115
Phone: (415) 921-5225 * Fax: (415) 931-4671 * Website: www.jacl.org * Email: jacl@jacl.org

October 24, 2017

James G. Van Bramer, Chairperson
NYC Council Committee on Cultural Affairs
250 Broadway
New York, NY 10007

Dear Chairperson Van Bramer,

It is my pleasure to write you on behalf of the Japanese American Citizens League, the nation's oldest and largest Asian American civil rights organization. The JACL was founded in 1929, although it is the experience of the unjust World War II incarceration that has defined and directed our community since.

As we know now, the foundation for Executive Order 9066, which enabled the mass imprisonment of 120,000 Japanese Americans, was grounded entirely in wartime hysteria and racist attitudes of the times which were pervasive throughout the country. This left little opening for opposition. Fred T. Korematsu, as well as Gordon Hirabayashi and Min Yasui, stood up to the injustice of the orders and took their fight to the Supreme Court which ultimately failed to side with the Constitution.

Years later, Fred Korematsu was vindicated when it was revealed that the government had hidden evidence that there was no threat and his conviction was overturned through the writ of coram nobis. He was later awarded the Presidential Medal of Freedom for his place in our country's history as a champion for justice.

We applaud the City of New York and join the New York City JACL chapter in support of Resolution 792 establishing January 30 as Fred T. Korematsu Day (of Civil Liberties and the Constitution). This day would serve not only as a testament to Fred Korematsu and his memory, but to his fight for justice, which you affirm as a worthy value for the people of New York City to hold.

Sincerely,

Gary Mayeda
President
Japanese American Citizens League



**Written Testimony of OCA-Asian Pacific American Advocates, New York Chapter
in support of Res. No. 792**

Scheduled for October 25, 2017

**Committee on Cultural Affairs, Libraries, and International Intergroup Relations
New York City Council Chambers
New York, N.Y.**

By: Chi Loek, President

Good afternoon, Chairperson Bramer and members of the Committee on Cultural Affairs. Thank you for providing OCA New York - Asian Pacific American Advocates with the opportunity to testify before you today on Res. No. 792. My name is Chi Loek, President of OCA New York Chapter. OCA is a national membership-driven organization headquartered in Washington D.C. dedicated to advancing the social, political and economic well-being of Asian Pacific Americans. The New York Chapter was founded in 1976 and has long been an ardent advocate for the broader AAPI community on issues of immigration, voting rights, civil rights, and social justice.

Let me start by saying that OCA-NY applauds the Council's significant commitment on upholding civil rights and taking the stance of anti-racial profiling. Passage of Res. No. 792 will reinstate this legislature's commitment. By establishing January 30 annually as Fred T. Korematsu Day (of Civil Liberties and the Constitution), we are sending a strong message to cities and states across the country that racial profiling and persecution is not acceptable. We must acknowledge the mistakes of the past, come united, and move forward as a society.

Fred T. Korematsu is a son of immigrants. We, New Yorkers, know the fact that people from all over the world come to the United States to start a new life for a reason. Some of us come here for economic opportunities. But for many, abandoning their home is not a choice or looking for opportunities. It's a survival instinct.

We do understand the historic context of the Second World War and our homeland was being attacked. However, we, as a nation, was found by immigrants, have a proud tradition of providing access to those who seek freedom and opportunity. Exclusion and displacement based on certain racial or ethnic background should never been brought up as a solution. The Executive Order 9066 not only broke our promise to the world but also violated the Constitutional rights of the American citizens of Japanese descent.

OCA-NY praises Mr. Korematsu's courage in fighting for justice and civil liberties which furthered the cause of equality for Asian Americans and made him an inspiration to those in New York City and across the country. Additionally, we look to him as an example of advocacy and seek for brighter future for future generations. I am proud to call Mr. Korematsu my fellow New Yorker.

We urge the Council to pass this important resolution and we look forward to observing Fred T. Korematsu Day annually in the near future.

Thank you again for this opportunity to testify.

F L O R I N
J a p a n e s e A m e r i c a n



J A C L
C i t i z e n s L e a g u e

Sacramento Valley

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October 25, 2017

New York City Council
c/o Sebastian Maguire, Esq.
Legislative Director & Counsel
Office of NYC Council Member Daniel Dromm
250 Broadway, 18th Floor
New York, NY 10007
via email smaguire@council.nyc.gov

Dear Honorable Council Members

The Florin Japanese American Citizens League – Sacramento Valley (Florin JACL-SV) writes asking the New York City Council to adopt Resolution No. 792 and establish each January 30th of each year as Fred T. Korematsu Day (of Civil Liberties and the Constitution).

Florin JACL-SV will be celebrating its 82nd Anniversary this year. Our mission is to promote civil rights, social justice, and cultural heritage for all through community education, alliances and leadership. The Florin chapter of JACL in Sacramento California works with various organizations in our area to make sure that past injustice experienced by American Citizens of Japanese Ancestry due war hysteria, racism, and the failure of political leaders resulting in the imprisonment of 120,000 individuals is remembered and does not happen again.

The courage of Fred Korematsu, an American Citizen who stood up and challenged a racist executive order is as American as can be. While his case made it to the Supreme Court of the United States, the majority of the court ruled against him in 1944. With the assistance of a group of attorneys lead by Dale Minami, in a historic *corum nobis* case, Fred Korematsu's conviction was reversed in 1983. Judge Patel found that the government "deliberately omitted relevant information and provided misleading information" during his trial and overturned his conviction. This lead to overturning the convictions of similarly situated individuals including Gordon Hirobayashi and Minoru Yasui. The successful *corum nobis* cases were undoubtedly instrumental in the government finally acknowledging the wrongfulness of the incarcerating 120,000 American citizens when Congress passed the Civil Liberties Act of 1988.

In 1988, Fred Korematsu was awarded the highest civilian award, the Presidential Medal of Honor by President Clinton. Fred Korematsu's legacy continues through the Fred T. Korematsu Institute for Civil Rights and Education.

Only through educating and remembering mistakes of the past can it be prevented, especially when there is a failure of political leadership dividing and marginalizing communities based on race prejudice and fear mongering.

Florin JACL-SV supports passage of Resolution No 792.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Joshua Kaizuka', with a large, sweeping flourish at the end.

**Joshua Kaizuka
Co-President
Florin JACL-SV**

TESTIMONY

IN

SUPPORT

OF

**RESOLUTION No. 792 ESTABLISHING
JANUARY 30 ANNUALLY AS FRED T. KOREMATSU DAY**

SUBMITTED

TO

NYC COUNCIL COMMITTEE ON CULTURAL AFFAIRS, LIBRARIES

AND

INTERNATIONAL INTERGROUP RELATIONS

ON

OCTOBER 25, 2017

BY

**STANLEY MARK
SENIOR STAFF ATTORNEY**

**ASIAN AMERICAN LEGAL DEFENSE AND EDUCATION FUND
99 HUDSON STREET, 12TH FLOOR
NEW YORK, NEW YORK, 10013**

212-966-5932

smark@aaldef.org

AALDEF is submitting this testimony in support of the NYC Council “Resolution No. 792 establishing January 30 annually as Fred T. Korematsu Day.”

My name is Stanley Mark. I am the Senior Staff Attorney at the Asian American Legal Defense and Education Fund (AALDEF), a national organization that protects and promotes the civil rights of Asian Americans by combining litigation, advocacy, community education, and organizing. AALDEF works with Asian American communities across the country to secure human rights for all.

Today, Fred T. Korematsu is a civil rights icon and a symbol of resistance. In 1942, he was profiled as an “enemy alien” for refusing to follow and obey the Presidential Executive Order 9066 and subsequent military orders that resulted in the incarceration of 120,000 persons without trials or hearings. About 2/3 were US citizens and about 1/3 were lawful permanent residents. In the 1940s, his family, and his community were racially and ethnically profiled as “enemy aliens” by our political and military leaders. All but a handful of organizations and individuals stood up against the President, the Congress, and the Supreme Court when their institutional decisions legalized both a selective and a wholesale incarceration of Japanese Americans based on race and national origin. Some served federal prison time while most, if not all, were detained in 1 of 10 US internment camps for the duration of World War II.

From these 10 internment camps, a redress movement was born and built by the example of Fred and other courageous dissenters (and later their children) who protested and resisted inside and later outside of the camps. Although it took more than 4 decades, the redress movement’s struggle and its demand for equality and justice led to the enactment of the Civil Liberties Act of 1988, that provided redress and partial reparations for this *en masse* incarceration. After conducting a series of public hearings, the US Commission on Wartime Relocation and Internment of Civilians (CWRIC) found that “race prejudice, war hysteria, and the failure of political leadership” was at the heart of these institutional decisions. (As a side note, I testified at the CWRIC hearing in NYC to support legislation for redress and reparations.)

During Fred’s successful “Coram Nobis” proceedings that vacated his convictions for refusing to follow military orders, it was revealed that government misconduct including the destruction and suppression of evidence completely undermined the government’s race-based and false narrative of “military necessity” that served as the legal justification and factual basis for the camps, or in today’s parlance, “alternative facts.” Back then, “military necessity” was part of our national security policy since we were in a declared war against fascism that had taken hold of Japan, Italy, and Germany. Today, we are in a perpetual war against “terrorism” here and abroad. Assertions of national security and public safety have led to racial and religious profiling and abridgement of civil rights and civil liberties of our fellow citizens perceived as perpetual foreigners. Fred’s wartime convictions and

sentence serve as a warning never to defer to propaganda as fact and to question government enforcement policies that promote racial or religious bigotry.

On a personal note, I had the honor and pleasure of meeting with Fred, his wife Kathryn, and his daughter Karen on several occasions over the years. I remember meeting Fred for the first time at Lincoln Center in 1984 at AALDEF's 10th Anniversary event. He was our keynote speaker after the showing of "Unfinished Business" an Oscar nominated film about the redress movement and the Coram Nobis cases. He also spoke at other AALDEF events honoring him in 2002 after the 9/11 attacks when racial and religious profiling lead to violence against Americans of Middle Eastern or South Asian descent as well as Muslims of all backgrounds. Speaking with him at different AALDEF events and law school panels about the camps, the redress movement, and remedial legislation, Fred always voiced a deep conviction that our internment was horrendously wrong and that all people should be treated as human beings, and not anything less.

For me, an annual Fred T. Korematsu Day would be a timely reminder today and in the future to remember my Japanese American friends and clients from these camps, to reflect on the lessons learned from the redress movement, and to act in today's political climate in order to secure human rights for all .

Thank you to City Council Member Dromm and all the City Council Members who support Resolution No. 792.

Subject: Statement: Rocky Chin, in support of "Fred Korematsu Day"

To: Hon. Daniel Dromm, Hon. Jimmy Van Bramer & Speaker Melissa Mark-Viverito
Members of the New York City Council

My name is Rockwell ("Rocky") Chin. I am a resident of the Lower East Side and a longtime civil rights advocate, attorney & Asian American community activist:

I am the founder of the Asian American Bar Association of New York, a current Board Member & former President of the Asian American Law Fund of New York, and the former Civil Rights Chair of the National Asian Pacific American Bar Association of New York. I also have had the privilege of serving at both the New York City Commission on Human Rights & the New York State Division of Human Rights.

NYC Councilman Danny Dromm's "Fred Korematsu Day Bill" is a fitting & timely tribute to one of our great American civil rights leaders on this 75th Anniversary of E.O. 9066. I had the opportunity to meet Fred Korematsu and his family many years ago. He is most deserving of this recognition.

We honor Fred - for his role of resistance, his courage & fortitude.. his vigorous endorsement and support of the coram nobis litigation, the Redress & Reparations Movement & the resulting Civil Liberties Act of 1988.

With this tribute by the New York City Council, we New Yorkers honor and remember those approx. 120,000 victims who were incarcerated in American Concentration Camps and those whose lives were harshly and forever disrupted. Some lost their lives as a result of the harsh conditions. All of those incarcerated were forced to sign unjust and unfair loyalty oaths, and those who on principal said "no" and "no", suffered further indignities.

We also honor & celebrate the generation of Japanese & Asian American community activists who - with many allies - forced America to recognize & redress this egregious violation of human rights. The movement for Japanese American Redress & Reparations inspired many Americans of all backgrounds, and the strong voices & lessons learned from this movement - including from Fred Korematsu and his family - resonate loud and clear! In light of the alarming escalation of bullying, harassment, scapegoating of immigrants, refugees, LGBT community, Muslims and people of color - we must take to heart the lessons from the incarceration of Japanese Americans and convince our fellow American brothers and sisters to begin speaking with one voice: Never Again!

In November 2001, the National Asian Pacific American Bar Association held its national convention in Scottsdale, Arizona. Coming just two

months after September 11th, the organizers initially had planned a lunch program addressing the September 11th Attacks - but without any speaker from New York City. The speaker they selected was an "Anti-Terrorist" specialist. Despite the real trauma we all felt at the time, I insisted that the organizers include a New York perspective and I was invited to be an additional speaker:

I vividly recall standing before the crowd, and trying to find the right message and voice coming so soon after this terrible attack and loss of life, at a time when hate crimes had already accelerated against people perceived to be Muslim, and calls from some quarters called for mass incarceration of Muslims.

Equally disturbing, civil rights and civil liberties were too quickly being offered as fodder to the rising voices of revenge and hate...seeking scapegoats. But when I looked out in the audience - there, in front, standing with his wife and daughter - was Fred Korematsu! He had been invited by NAPABA to receive an award. And seeing Fred, and knowing his history, I began to think of how much darker those days and months were following Pearl Harbor - a horrific scapegoating of the Japanese American community. I then found my voice - and the words came out easily: I called upon our Asian American community to resist the calls for scapegoating, deportation and incarceration, that we needed to stand w/ Muslims and others being scapegoated, we needed to dig down deep and recognize that it is precisely at a time like the period after December 7, 1941 and September 11, 2001 - standing firm in defending civil liberties and civil rights is not only about personal integrity or standing up for ones own principals - but is about saving the very soul of America and what we stand for.

I thank Fred for giving me my voice that day and the days to follow. We all need to be strong today...as we face such a threat today - coming from the very center of government power in America. But Fred and the Japanese American Redress and Reparations Movement that followed in the 70's and 80's - also demonstrated to us that power lies with the people. And in the end, we must have faith that indeed, as the slogan goes: "The People United, will never be Defeated!".

Thank you Councilmen Danny Dromm & Jimmy Van Bramer & the New York City Council, for submitting this Council bill to commemorate Fred Korematsu. In doing so, you also underscore the importance of organized resistance and supporting other movements for redress & reparations. Such actions by elected officials and people of good will help to introduce new generations of Americans & global citizens to a chapter of history often left out of our narrative about America's history.

I support "Fred Korematsu Day Bill" (Jan. 30) with enthusiasm!

=====

Fred T. Korematsu:

Fred T. Korematsu was a national civil rights hero. In 1942, at the age of 23, he refused to go to the government's incarceration camps for Japanese Americans. After he was arrested and convicted of defying the government's order, he appealed his case all the way to the Supreme Court. In 1944, the Supreme Court ruled against him, arguing that the incarceration was justified due to military necessity.

In 1983, Prof. Peter Irons, a legal historian, together with researcher Aiko Herzig-Yoshinaga, discovered key documents that government intelligence agencies had hidden from the Supreme Court in 1944. The documents consistently showed that Japanese Americans had committed no acts of treason to justify mass incarceration. With this new evidence, a pro-bono legal team that included the Asian Law Caucus re-opened Korematsu's 40-year-old case on the basis of government misconduct. On November 10, 1983, Korematsu's conviction was overturned in a federal court in San Francisco. It was a pivotal moment in civil rights history.

Korematsu remained an activist throughout his life. In 1998, he received the Presidential Medal of Freedom, the nation's highest civilian honor, from President Bill Clinton. In 2010, the state of California passed the [Fred Korematsu Day bill](#), making January 30 the first day in the U.S. named after an Asian American. [Korematsu's growing legacy](#) continues to inspire people of all backgrounds and demonstrates the importance of speaking up to fight injustice.

Rocky Chin, Esq.
[\(917\) 577-5748](tel:9175775748)
chinrocky@gmail.com
(cell/voice/text)

Subject: In Support of Res. No. 792

Hi Mr. Maguire,

I wanted to join my fellow community members in New York City's Japanese American community to express my appreciation to Council Member Dromm for introducing Resolution 792 - Fred Korematsu Day. I live in Council Member Lander's district and appreciate his co-sponsoring this legislation.

As a Japanese American whose family was incarcerated in Heart Mountain, I am deeply concerned about the current trajectory of our country. Establishing January 30th as Fred Korematsu Day can be used as a platform to educate and engage all New Yorkers on the experiences of the Japanese American community during World War II. Furthermore, honoring Fred Korematsu will inspire every day New Yorkers reminding them that one person can make a difference when standing up to a social injustice.

I urge the full New York City Council to pass this important legislation.

Sincerely,

Peter Gee
Brooklyn, NY 11215

Subject: Fred T. Korematsu Day Hearing

Dear Mr. Maguire,

I strongly support New York City Hall's resolution No. 792 to declare January 30, 2018, Fred T. Korematsu Day. Mr. Korematsu exemplified the values expressed in our Constitution, when he took his courageous stand for justice at the young age of 23. He is a true hero whom all of America can admire and be proud of. He serves as a role model. At this time in our history, we need more courageous people like Fred Korematsu who take principled stands for the values on which this country was founded. I look up to him as a man of honor and integrity.

Most Sincerely,
Lois D. Bron
Pittsburgh, PA

Thank you for having this hearing today. My name is Tenaya Izu, I am a third and fourth generation Chinese and Japanese American from Oakland, California, living in Washington Heights. My pronouns are they/them.

Designating January 30th as Fred Korematsu Day would set a precedent for adults and children alike, teaching and reminding them that sweeping punitive measures targeting minorities, even when authorized and encouraged by the highest power in Office, are wrong. In a political climate that prioritizes protecting serial rapists over seeking basic safety for transgender people, we need to recognize as heroes those who had the enormous courage to stand up, often alone, to state violence, who refused to budge at enormous cost to their freedom and safety when the state demand they shrink themselves. Marsha P. Johnson, Sylvia Rivera, Chelsea Manning....

Today, there is an increasing fear of speaking out. People like me and many of those in this room know that we are viewed as a “threats” to the normative order of the US- we are marked as “other” and therefore become targets for hatred and fear, both in policy and every day practice.

Meanwhile, white supremacists gather en masse, unmolested, to “reclaim” America as it “should be” - white, male, cisgender, bigoted.

This is the same climate of fear, xenophobia and bigotry that led to the scapegoating of 120,000 people of Japanese ancestry during WW2.

In the retelling of incarceration stories, there is always emphasis on the fact that many were American Citizens. What is overlooked is that those who were not citizens were legally denied citizenship because they were born in Japan, and therefore ineligible for citizenship because of the xenophobic, racist laws of the time. There

are clear parallels between the fear of “foreigners” then and the fear of brown and black migrant workers and refugees today.

As history has demonstrated, this was wrong. It continues to be wrong in the scapegoating of queer people, Muslim people, and all people of color for the bigoted insecurities and fears of those in power. America was never white, but it has always depended on the oppression of those deemed “undesirable” by the state - nonwhites, women, queers, immigrants, refugees, poor people, etc.

Designating January 30th as Korematsu day will remind children and adults alike the necessity of standing up to what is wrong, even if it seems they stand alone. It will send a strong message that yes, we too are America, we have been America, and we are what America will look like. We need to recognize more heroes like Fred Korematsu. Thank you!

Good Afternoon, Council Members Dromm, Chin, Koo, Ferreras-Copeland, Johnson, Koslowitz, Kallos, Treyger, Richards, Salamanca, Gentile, King, Constantinides, Garodnick, Levin, Espinal, Grodenchik, Rosenthal, Mendez, Deutsch, Lander, Menchaca, Palma, Vacca, Levine, Rose, Reynoso, Torres, Rodriguez, Cornegy, Miller, Lancman, Perkins, Ulrich, and Borelli,

It is with great gratitude that I thank you and express to you how much Resolution 792 means to me and countless other New Yorkers of Japanese ancestry as well as many people of other ethnicities and races who have stood by to support the inclusion of issues in our city which provide respect, honor and a desire to see our city, home of the United Nations, in a leadership role on the East Coast to recognize an American patriot who stood up with courage and moral outrage at something proposed by our government to incarcerate and put under curfew people based upon their ethnicity and origin regardless of their being citizens born in America or people who were denied that citizenship and the right to vote or own land based upon that heritage.

This resolution is particularly poignant today, as we seek to recognize this man, Fred Korematsu who stood up against this illegal act. We seek to add to the curriculum of our public school system a name, an action by a man protesting what he thought to be unconscionable and the context of World War II and the subsequent incarceration of the Japanese living along the West coast. For all those in American being denied a complete history of the newcomers to our country, our youngsters do not know the significance of what this history means, when today, Muslims and particularly Syrians when it was suggested that they too should be incarcerated, listed or denied entry to our great nation of people from around the world. To understand the precedent set by incarcerating the Japanese would lead to the understanding of how horrendous the suggestion of "rounding up Arab students" after 9/11 and more recently all Muslims but in particular Syrians and denying entry of people from primarily Muslim nations..

Others are providing you with testimony with particulars about Fred Korematsu, his life and the significance of his courage to stand up for what he believed to be an injustice. You will hear highlights of what happened to people on the West Coast when President Roosevelt issued Executive Order 9066. This has all been documented, but what happened on the East Coast is less known, rarely documented and until the exhibit at Ellis Island entitled "America's Concentration Camps" little was known about the entire issue - West or East Coasts by people in the metropolitan NY area and tourists to Ellis Island.

I will share with you a few bits of my history, just to point out that things happened to people on the East Coast and in particular, New York City, where I was born 82 years ago in a Harlem Hospital. No doubt you did not know that by an unwritten code or "Gentleman's Agreement", our Japanese

community doctor was not allowed to deliver babies in any hospital south of 125th Street in Manhattan including Columbia Presbyterian which while on 168th Street thought that meant below 125th.. All of the hospitals where Dr. Iwamoto had hospital privileges and delivered babies are now closed or buildings used for other purposes including Sydenham, Knickerbocker, Jewish Memorial, Lutheran and Cabrini. He delivered my sister and me at Lutheran and he delivered two of my children, one in Cabrini and the other at Jewish Memorial.

You may wonder why the Japanese community seems to be smaller than other ethnicities. One of the reasons was that after the end of World War II, Mayor LaGuardia contacted the War Relocation Authority and said, Don't send any Japs to NYC as we don't want them, they are not welcome. It is no wonder that after the incarceration experience the majority of those choosing to come East went to Long Island, Westchester County, New Jersey and Connecticut. There are many corporate, Japan born business people in NYC however many live outside of NYC.

On Pearl Harbor Day, my sister's close friend's Father called my Mother and told her to tell my Father to come home immediately from his job. He explained about the bombing report on the teletype and he didn't know what might happen to my Father. Because there were many single men living in NYC at dormitory like residences adjacent to the Churches or one in Brooklyn Heights it was easy for the FBI to swoop down and the men were sent to Ellis Island that very afternoon along with many corporate Japanese workers and some local Japanese Americans including our community doctor..The single people were sent back to Japan as were the few with a family here. Some people were kept on Ellis Island for the duration of the war. It was perhaps fortuitous that our physician was incarcerated at Ellis Island because it had not been restored yet and people got with pneumonia in the cold and damp facility. Dr. Iwamoto was able to tell outside officials that sulfa was needed as well as additional medications. He was later released as were some others able to prove family or other reasons that got them released.

For many years as my sister and I were growing up in NYC our Mother called our father and said she was taking us to school or the park or to church or shopping and we always wondered why.. In those days you never asked your parents why they were doing something. One day she took down all of the curtains we had seen her sew. From that day we all took turns getting dressed in the bathroom. She placed little plants in each window. They suddenly stopped speaking any Japanese in front of us. They didn't invite Japanese friends and because the Japanese institutions as Buddhist Church, Japanese language school, one Christian Church, restaurants and the social service organization and club were all closed we went to meet friends at the local Chinese restaurant. Many years later my Mother explained that the reason our parents didn't visit us at summer camp was that the FBI didn't let my Mother leave Manhattan. The reason was that my Mother, born in matsue, japan was considered an enemy alien and was under house arrest and had to get permission from the FBI to leave our apartment. The FBI came tio

ask our neighbors if they hears our parents speak Japanese to my sister and me, heard them use a shortwave radio, have Japanese to the house or pulled the curtains at night. All of these provided answers many years later the reasons for our parents never having Japanese friends visit except for one very critical difference. When all of the cousins came to NYC to go to the harbor to take the ship to Europe to fight in WWII they called our parents and asked if Mommy would fix them some rice before they went to fight. They said that at Camp Shelby in Mississippi where the 100th battalion, 442 Infantry segregated army members were sent for training - they said they didn't know that you weren't supposed to put butter and sugar on rice! My mother soon learned how to make rice for 20 men at a time - while I lost count I am quite sure my parents fed rice to over 600 or more. Sadly many did not make it back.

These are a few of the East Coast memories, few of us are still alive in NYC and I would like to think that our city which is filled with DACA young people and many school children and their teachers will learn about parts of our missing history and benefit from the decision you will make today.

Suki Terada Ports



JAPANESE AMERICAN
NATIONAL MUSEUM

100 North Central Avenue
Los Angeles, CA 90012
Telephone: 213.625.9414

October 25, 2017

Sebastian Maguire, Esq.
Legislative Director & Counsel
Office of NYC Council Member Daniel Dromm
259 Broadway, 18th Floor
New York, NY 10007

Dear Mr. Maguire,

The JAPANESE AMERICAN NATIONAL MUSEUM--located in the heart of Los Angeles's historic Little Tokyo District--wholeheartedly supports the current efforts by City Council Member Danny Dromm to approve **Resolution No. 792** to declare January 30th "Fred T. Korematsu Day." For more than 25 years, our Museum has presented programs and exhibitions dedicated to our mission: *"to promote understanding and appreciation of America's ethnic and cultural diversity by sharing the experiences of Japanese Americans."* Mr. Korematsu himself participated in public programs at our museum and since his passing in 2005 has been the subject of numerous JANM presentations across the country focusing on civil liberties and the contemporary relevance of the unjust incarceration of Japanese Americans during World War II.

Certainly, no person better exemplifies the values and challenges of American Democracy than Mr. Korematsu, who, in 1942 at age 23, refused government orders to report to incarceration camps for Japanese Americans. After arrest and conviction for defying the government order, he appealed his case, eventually advancing to consideration by the Supreme Court. When his conviction was overturned in a San Francisco federal court, it was a pivotal moment in civil rights history and an inspiration to all involved in civil rights and social justice. An activist throughout his life, Mr. Korematsu received the Presidential Medal of Freedom--the nation's highest civilian honor--from President Clinton in 1998. In 2010, the State of California passed the Fred Korematsu Day Bill, making January 30 the first day in the U.S. named in honor of an Asian American.

Mr. Korematsu's growing legacy continues to inspire people of all backgrounds and demonstrates the vital importance of speaking up against injustice, so it would be a fitting and significant recognition by the eminent State of New York to acknowledge his extraordinary life with "Fred T. Korematsu Day."

Sincerely,

Ann Burroughs
President and CEO
JAPANESE AMERICAN NATIONAL MUSEUM



Asian American Federation

STATEMENT SUBMITTED TO THE COMMITTEE ON CULTURAL AFFAIRS, LIBRARIES AND INTERNATIONAL INTERGROUP RELATIONS OF THE NEW YORK CITY COUNCIL

October 26, 2017

Thank you Councilmember Van Bramer and Councilmember Dromm, and the other members of this committee for convening this hearing. I am Jo-Ann Yoo, executive director of the Asian American Federation (AAF).

The Federation's mission is to raise the influence and well-being of the pan-Asian American community through research, policy advocacy, public awareness, and organizational development. Established in 1989, the Federation is a pan-Asian nonprofit organization representing a network of nearly 70 community services agencies in the Northeast. These agencies work in the fields of health & human services, education, economic development, civic participation, and social justice.

I am submitting this testimony **in support of Resolution 792** establishing January 30th as Fred Korematsu Day in New York City.

There have been more eloquent and personal testimonies supporting Resolution 792, and I want to add my support for myriad reasons, but raise three specific points for AAF's and my personal support:

- The Asian American community is the fastest growing in New York City, now comprising over 15% of the population, with 70% being immigrants. 95% of Asian children in NYC have at least one immigrant parent. The history of Asian Americans is not taught in schools. In fact, Asians are rarely reflected in media, sports or in politics despite our contributions. Asian children – in fact, all children – need to learn about everyday people who have made indelible contributions to the democratic progress of our country. More than ever, as racist sentiments permeate every corner of our country, many in our community cower in fear. This is the precise moment where we need to celebrate leaders from the Asian community who have contributed to the rich history of our country by standing up against hate. There is no doubt that Mr. Korematsu is a key figure in our country's history, and while all children deserve to see heroes who come from all races and ethnicities to enrich our nation's history, Asian American youth need to learn about leaders from our own community who are recognized as national heroes. From this, both

Asian American youth and adults can embrace their heritage and learn to be proud of who they are, and to raise their voices against hate.

- Mr. Korematsu stood up against a grave injustice when the U.S. government perpetuated on its own citizens and political leaders allowed our families, friends, and neighbors to be imprisoned and labeled as enemies. Today, his rich legacy of bravery has been the rallying cry for Japanese Americans and all Asian Americans to stand against the vilification of our Muslim and Arab families and neighbors who are now facing similar hostile threats from political decisions made in fear. We cannot allow history to repeat itself. The history Mr. Korematsu made in the United States serves as a reminder that we must stand against tyranny and demand justice for all Americans. As a sanctuary city, we need to celebrate heroes who stood up to discrimination and remember that leadership does not always come from celebrities, but also from every day Americans, like a welder who spoke up during a racist and politically wary time for Asian Americans. Mr. Korematsu made it his lifelong mission to teach the country that we must always stand against discrimination and bigotry.
- Finally, on a personal note, I grew up in Colorado, home to Camp Amache where over 10,000 Americans lived in its three-year existence, imprisoning great leaders like Congressman Mike Honda. Annual school field trips included seeing the recreation of living quarters in Camp Amache, and as one of the only Asian Americans in my school I was overcome with a sense of anger and shame. I dreaded those trips, shrinking into the shadows and hoping for the tours to end quickly. Growing up, there was no positive history lesson taught to me about the Asian American community. In law school, I studied *Korematsu v. United States*, analyzing the racist law and rationale that deeded Americans as enemies, and Mr. Korematsu's efforts to fight for his dignity was a moment of tremendous pride that made an indelible impression in my own life.

While the pan-Asian and immigrant community endures countless unreported crimes stemming from racism, celebrating an American leader like Fred Korematsu will be an important reminder that the fight for justice is never ending, that we must remain vigilant so that the shameful part of our country's history not be replicated, and that we have to build bridges between all communities to make our already great country even greater, and that dissenting unjust laws is a patriotic act and our moral duty.

Thank you!

THE COUNCIL
THE CITY OF NEW YORK

Appearance Card

792

I intend to appear and speak on Int. No. _____ Res. No. _____
 in favor in opposition

Date: 10/25/2007

(PLEASE PRINT)

Name: Joseph Salvatore Pidofigano

Address: 101 Saint Stephen Pl.

I represent: myself

Address: _____

THE COUNCIL
THE CITY OF NEW YORK

Appearance Card

I intend to appear and speak on Int. No. ~~792~~ Res. No. 792
 in favor in opposition

Date: 10-25-17

(PLEASE PRINT)

Name: JENNIFER HAYASHIDA

Address: 365 CLINTON AVE, APT 2F BROOKLYN NY

I represent: MYSELF

Address: _____

THE COUNCIL
THE CITY OF NEW YORK

Appearance Card

I intend to appear and speak on Int. No. _____ Res. No. _____
 in favor in opposition

Date: _____

(PLEASE PRINT)

Name: Steve Goldberg

Address: 57 MONTAGNE ST, BROOKLYN

I represent: self & community

Address: _____

Please complete this card and return to the Sergeant-at-Arms

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. _____ Res. No. _____

in favor in opposition

Date: 10/25/2017

(PLEASE PRINT)

Name: Lori Bannai

Address: _____

I represent: CALL IN

Address: _____

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. _____ Res. No. _____

in favor in opposition

Date: 10/25/2017

(PLEASE PRINT)

Name: Karen Korematsu

Address: _____

I represent: CALL IN

Address: _____

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. _____ Res. No. _____

in favor in opposition

Date: _____

(PLEASE PRINT)

Name: Albert Chan

Address: _____

I represent: CAIR-NY

Address: 46-91 20th AVE

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THE COUNCIL
THE CITY OF NEW YORK

Appearance Card

I intend to appear and speak on Int. No. _____ Res. No. 792

in favor in opposition

Date: Oct 25, 2017

(PLEASE PRINT)

Name: Tenaya Izu

Address: 612 West 189th St #34 NYC 10040

I represent: _____

Address: _____

THE COUNCIL
THE CITY OF NEW YORK

Appearance Card

I intend to appear and speak on Int. No. _____ Res. No. 792

in favor in opposition

Date: 10-25-2017

(PLEASE PRINT)

Name: Andy Kim

Address: 20 West St., Apt. 45F, New York City, NY 10004

I represent: NYU Law Apalsa

Address: 40 Washington Square S, New York, NY 10012

THE COUNCIL
THE CITY OF NEW YORK

Appearance Card

I intend to appear and speak on Int. No. _____ Res. No. 792

in favor in opposition

Date: 10/25/2017

(PLEASE PRINT)

Name: GEORGE HIROSE

Address: 20 STUYVESANT OVAL #12H NY NY 10009

I represent: SACL NY

Address: 49 West 45th St. NY

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. _____ Res. No. 792

in favor in opposition

Date: OCTOBER 25, 2017

(PLEASE PRINT)

Name: DAVID OKADA

Address: 200 WEST 86TH STREET 10024

I represent: JAPANESE AMERICAN CITIZENS LEAGUE

Address: 49 W. 45TH STREET

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. _____ Res. No. 792

in favor in opposition

Date: 10-25-17

(PLEASE PRINT)

Name: SHARMIN SADEQUE

Address: 2714 Bedford Ave. BROOKLYN

I represent: NO SEPARATE JUSTICE

Address: _____

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. _____ Res. No. 792

in favor in opposition

Date: _____

(PLEASE PRINT)

Name: Christina Tasca

Address: 239 Thompson St.

I represent: Muslim Community Network

Address: 239 Thompson St.

Please complete this card and return to the Sergeant-at-Arms

THE COUNCIL
THE CITY OF NEW YORK

Appearance Card

I intend to appear and speak on Int. No. _____ Res. No. 792
 in favor in opposition

Date: 10/25/17

(PLEASE PRINT)

Name: YANG CHEN
Address: AAPANY 45 Park Plz MC 10111
I represent: Asian Am Ban Area NY
Address: same as above

THE COUNCIL
THE CITY OF NEW YORK

Appearance Card

I intend to appear and speak on Int. No. _____ Res. No. _____
 in favor in opposition

Date: 10/25/2017

(PLEASE PRINT)

Name: Café Golding
Address: 793 Franklin Ave.
I represent: Korematsu Institute
Address: 793 Franklin Ave. Brooklyn, NY
11231

THE COUNCIL
THE CITY OF NEW YORK

Appearance Card

I intend to appear and speak on Int. No. 0792 Res. No. 2015
 in favor in opposition

Date: 10/25/2017

(PLEASE PRINT)

Name: Dr. Rozella G. Clyde
Address: 33 Carmine Street, Chatham NJ 07928
I represent: former pres. dept ATSS/UFT
Address: Educational Director, Clydeoscope
Educational Consultants, LLC, (same address)

Please complete this card and return to the Sergeant-at-Arms

THE COUNCIL
THE CITY OF NEW YORK

Appearance Card

I intend to appear and speak on Int. No. _____ Res. No. _____

in favor in opposition

Date: _____

(PLEASE PRINT)

Name: Myung Kwon (Tony) Cho

Address: 335 E 58 St. 4F, NYC, NY 10022

I represent: 18MillionRising.org

Address: _____

THE COUNCIL
THE CITY OF NEW YORK

Appearance Card

I intend to appear and speak on Int. No. _____ Res. No. _____

in favor in opposition

Date: 10/25/17

(PLEASE PRINT)

Name: TAKESHI FURUMOTO

Address: 44 KENNEDY CIRCLE

I represent: JAPANESE AMERICAN ASSOC OF NY

Address: 49 W 45 TH ST NY.

THE COUNCIL
THE CITY OF NEW YORK

Appearance Card

I intend to appear and speak on Int. No. _____ Res. No. F02

in favor in opposition

Date: 10/25/2017

(PLEASE PRINT)

Name: Elizabeth R. Ouyang

Address: 145 Hicks St. Suite B62. Brooklyn, NY

I represent: myself, educator, civil rights activist

Address: _____

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. _____ Res. No. 792

in favor in opposition

Date: 10/25/17

(PLEASE PRINT)

Name: Robert Johnson, Akin Gump law firm

Address: One Bryant Park, NYC 10036

I represent: Korematsu Center for Law & Equality

Address: Seattle Univ. School of Law

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. _____ Res. No. _____

in favor in opposition

Date: _____

(PLEASE PRINT)

Name: NADAD Almaguer

Address: _____

I represent: CACE - Brooklyn Tech High School

Address: _____

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. _____ Res. No. _____

in favor in opposition

Date: _____

(PLEASE PRINT)

Name: Miguel Wu Guo

Address: _____

I represent: CADPA, Laguardia High School

Address: _____

Please complete this card and return to the Sergeant-at-Arms

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. _____ Res. No. _____
 in favor in opposition

Date: _____

(PLEASE PRINT)

Name: Mitchell Wu

Address: _____

I represent: (ACA) Coalition for Asian American Children & Families

Address: _____

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. _____ Res. No. _____
 in favor in opposition

Date: _____

(PLEASE PRINT)

Name: SULIP AZUMA

Address: 12 W. 18TH ST. NYC 10011

I represent: Myself

Address: _____

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. _____ Res. No. _____
 in favor in opposition

Date: _____

(PLEASE PRINT)

Name: Debbie Almontaser

Address: 785 Westminister Ave

I represent: Yemeni American Merchants Association

Address: _____

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THE COUNCIL
THE CITY OF NEW YORK

Appearance Card

I intend to appear and speak on Int. No. _____ Res. No. _____
 in favor in opposition

Date: 10/25/2017

(PLEASE PRINT)

Name: Kenji Ima (yanagita)

Address: 100 Bank St. NY 10014

I represent: Myself

Address: _____

THE COUNCIL
THE CITY OF NEW YORK

Appearance Card

I intend to appear and speak on Int. No. _____ Res. No. _____
 in favor in opposition

Date: Oct 25 2017

(PLEASE PRINT)

Name: Kim Ima

Address: 100 Bank St #3A NYC 10014

I represent: New York Day of Remembrance Committee

Address: _____

THE COUNCIL
THE CITY OF NEW YORK

Appearance Card

I intend to appear and speak on Int. No. _____ Res. No. _____
 in favor in opposition

Date: _____

(PLEASE PRINT)

Name: Sophia Zhiping

Address: _____

I represent: ACT Hunter High School

Address: _____

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**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. _____ Res. No. _____

in favor in opposition

Date: _____

(PLEASE PRINT)

Name: Binyao Onyiah

Address: _____

I represent: (C.A.A.) Laguardia College (International High)

Address: _____ School

Please complete this card and return to the Sergeant-at-Arms

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. _____ Res. No. _____

in favor in opposition

Date: _____

(PLEASE PRINT)

Name: Shahid Jamil Qureshi

Address: _____

I represent: (C.A.A.) High School Language and

Address: _____ Innovation

Please complete this card and return to the Sergeant-at-Arms

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. _____ Res. No. _____

in favor in opposition

Date: _____

(PLEASE PRINT)

Name: Andy Cai

Address: _____

I represent: (CACE) Stuyvesant High School

Address: _____

Please complete this card and return to the Sergeant-at-Arms

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. _____ Res. No. _____

in favor in opposition

Date: _____

(PLEASE PRINT)

Name: Shahana Abidin

Address: Andy Cai

I represent: (CACE) High School Construction Trade

Address: (CACE) Stuyvesant High School

Please complete this card and return to the Sergeant-at-Arms