

Assembly Concurrent Resolution

No. 10

**Introduced by Assembly Member Muratsuchi
(Principal coauthor: Assembly Member Bonta)**

(Coauthors: Assembly Members Acosta, Aguiar-Curry, Travis Allen, Arambula, Baker, Berman, Bigelow, Bloom, Bocanegra, Brough, Burke, Caballero, Calderon, Cervantes, Chau, Chávez, Chen, Chiu, Choi, Chu, Cooley, Cooper, Cunningham, Dababneh, Dahle, Daly, Eggman, Flora, Fong, Frazier, Friedman, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Gloria, Gonzalez Fletcher, Gray, Grayson, Harper, Holden, Irwin, Jones-Sawyer, Kalra, Kiley, Lackey, Levine, Limón, Low, Maienschein, Mathis, Mayes, McCarty, Medina, Melendez, Mullin, Nazarian, Obernolte, O'Donnell, Patterson, Quirk, Quirk-Silva, Rendon, Reyes, Ridley-Thomas, Rodriguez, Rubio, Salas, Santiago, Steinorth, Mark Stone, Thurmond, Ting, Voepel, Waldron, Weber, and Wood)

January 13, 2017

Assembly Concurrent Resolution No. 10—Relative to Fred Korematsu Day of Civil Liberties and the Constitution.

LEGISLATIVE COUNSEL'S DIGEST

ACR 10, as introduced, Muratsuchi. Fred Korematsu Day of Civil Liberties and the Constitution.

This measure would designate that January 30, 2017, be observed as Fred Korematsu Day of Civil Liberties and the Constitution.

Fiscal committee: no.

1 WHEREAS, Fred Korematsu was born in Oakland, California,
2 on January 30, 1919, to Japanese immigrant parents. Upon

1 graduation from Castlemont High School in 1937, Mr. Korematsu
2 was unable to serve in the United States military because his
3 selective service classification had been changed to “Enemy Alien,”
4 even though he was a United States citizen. Mr. Korematsu
5 attended the Master School of Welding and worked at the docks
6 in Oakland as a shipyard welder, quickly rising through the ranks
7 to foreman until his union barred all people of Japanese ancestry
8 and his employment was terminated; and

9 WHEREAS, In 1942, Fred Korematsu refused to comply with
10 Civilian Exclusion Order No. 34 which was authorized by President
11 Franklin D. Roosevelt’s Executive Order No. 9066. It imposed
12 strict curfew regulations and required over 100,000 United States
13 citizens and permanent residents of Japanese ancestry to leave
14 their homes on the West Coast and submit to imprisonment based
15 solely on their ancestry; and

16 WHEREAS, Fred Korematsu was arrested on May 30, 1942,
17 and charged with violating the military’s exclusion order. While
18 he spent two and one-half months in the Presidio stockade prison
19 in San Francisco, the Executive Director of the American Civil
20 Liberties Union of Northern California, Ernest Besig, offered to
21 defend him. Fred Korematsu was tried and convicted by a federal
22 court and taken by military authorities to the Tanforan Assembly
23 Center in San Bruno, California. After spending several months
24 at Tanforan, a former horse racing track, Korematsu and his family
25 were sent to the Topaz concentration camp in Utah. Believing the
26 discriminatory conviction violated freedoms guaranteed by the
27 Constitution, Fred Korematsu appealed his case. Though the appeal
28 went up to the United States Supreme Court in 1944, justice was
29 denied to Fred Korematsu when the Supreme Court upheld the
30 conviction by a six to three vote, leaving him devastated and
31 wondering what effect this would have on other Americans; and

32 WHEREAS, Following World War II and the release of Japanese
33 Americans from the concentration camps, Fred Korematsu
34 attempted to resume life as an American citizen, marrying his wife
35 Kathryn and raising two children, Karen and Ken. He maintained
36 his innocence through the years, but the conviction had a lasting
37 impact on Fred Korematsu’s basic rights, affecting his ability to
38 obtain employment; and

39 WHEREAS, In 1982, with newly discovered evidence found
40 by Peter Irons, a legal historian and attorney, and Aiko

1 Herzig-Yoshinaga, a researcher, Fred Korematsu made the decision
2 to reopen his 1944 conviction by petitioning for a writ of error
3 coram nobis to have the wrongful conviction vacated. The task of
4 retrying a legal case based on events 40 years past was complicated
5 and novel, but a pro bono legal team composed mostly of Sansei
6 (third generation Japanese Americans) was determined to undo
7 the injustice perpetrated on Fred Korematsu and their own family
8 members who were imprisoned along with Korematsu; and

9 WHEREAS, The writ of error coram nobis has been extremely
10 limited in application, but has been used by courts once an
11 individual has been convicted and released in order to correct a
12 court's fundamental error or to reverse a manifest injustice. For
13 Fred Korematsu, the fundamental errors at the Supreme Court
14 level were the suppression, alteration, and destruction by United
15 States government officials of evidence indicating that Japanese
16 Americans were neither disloyal nor predisposed to espionage and
17 sabotage and that no facts warranted the issuance of the military
18 orders and Executive Order No. 9066. Thus, Fred Korematsu's
19 lawyers argued that a fraud on the Supreme Court had been
20 committed, resulting in Fred Korematsu's conviction; and

21 WHEREAS, After litigating for nearly a year in the United
22 States District Court for the Northern District of California, Fred
23 Korematsu and his legal team emerged triumphant on November
24 10, 1983, when Judge Marilyn Hall Patel announced from the
25 bench her decision granting the petition for the writ of error coram
26 nobis to overturn Fred Korematsu's conviction. The written
27 decision was published on April 19, 1984. The coram nobis
28 decision in this case impaired the precedent of the original Supreme
29 Court cases which validated the curfew and exclusion orders. In
30 addition, the decisions influenced Congress' passage of the Civil
31 Liberties Act of 1988; and

32 WHEREAS, The Civil Liberties Act of 1988 was signed into
33 law by President Ronald Reagan and recognized the grave injustice
34 that was done to United States residents and citizens of Japanese
35 ancestry by the forced relocation and incarceration of civilians
36 during World War II. Congress acknowledged that the incarceration
37 of these Japanese Americans occurred because of racial prejudice,
38 wartime hysteria, and a failure of political leadership. The apology
39 extended on behalf of the United States was also intended to make
40 more credible and to be consistent with any expressions of concern

1 by the United States over violations of human rights committed
2 by other nations; and

3 WHEREAS, on January 15, 1998, Fred Korematsu was awarded
4 the Presidential Medal of Freedom. The Presidential Medal of
5 Freedom is the highest honor bestowed upon a civilian who has
6 made a particularly meritorious contribution to the nation's
7 interests; and

8 WHEREAS, Fred Korematsu continued his efforts to ensure
9 that Americans do not forget the lessons learned from our own
10 history as he traveled across the country, speaking at various
11 colleges, law schools, and other organizations. On March 30, 2005,
12 a true civil liberties hero was lost when Fred Korematsu passed
13 away at 86 years of age due to respiratory illness in San Rafael,
14 California, leaving behind a lasting influence on the importance
15 of maintaining the constitutionally mandated guarantee of liberty
16 for all Americans; and

17 WHEREAS, Section 6722 of the Government Code requires
18 the Governor annually to proclaim January 30 as Fred Korematsu
19 Day of Civil Liberties and the Constitution, and Section 37222.15
20 of the Education Code designates that date of each year as having
21 special significance in public schools and educational institutions
22 and encourages those entities to observe that date by conducting
23 exercises remembering the life of Fred Korematsu and recognizing
24 the importance of preserving civil liberties; now, therefore, be it

25 *Resolved by the Assembly of the State of California, the Senate*
26 *thereof concurring*, That Monday, January 30, 2017, be observed
27 as Fred Korematsu Day of Civil Liberties and the Constitution;
28 and be it further

29 *Resolved*, That Fred Korematsu's life and his willingness to
30 assert that our civil liberties are the hallmark of our great country
31 have left an indelible mark on the history of our nation and hold
32 a special meaning for the people of California; and be it further

33 *Resolved*, That on Fred Korematsu Day of Civil Liberties and
34 the Constitution, the Legislature encourages all public schools and
35 educational institutions to conduct exercises remembering the life
36 of Fred Korematsu and recognizing the importance of preserving
37 civil liberties, even in times of real or perceived crisis; and be it
38 further

1 *Resolved*, That the Chief Clerk of the Assembly transmit copies
2 of this resolution to the author for appropriate distribution.

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5 **CORRECTIONS:** _____

6 Text—Pages 2 and 4.

7 **REVISIONS:**

8 Heading—Line 3.

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