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ACR-159 Fred Korematsu Day of Civil Liberties and the Constitution. (2017-2018)

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Assembly Concurrent Resolution No. 159

CHAPTER 14

Relative to Fred Korematsu Day of Civil Liberties and the Constitution.

[Filed with Secretary of State February 22, 2018.]

LEGISLATIVE COUNSEL'S DIGEST

ACR 159, Ting. Fred Korematsu Day of Civil Liberties and the Constitution.

This measure would designate that January 30, 2018, be observed as Fred Korematsu Day of Civil Liberties and the Constitution.

Fiscal Committee: no

WHEREAS, Fred Korematsu was born in Oakland, California, on January 30, 1919, to Japanese immigrant parents. Upon graduation from Castlemont High School in 1937, Mr. Korematsu was unable to serve in the United States military because his selective service classification had been changed to "Enemy Alien," even though he was a United States citizen. Mr. Korematsu attended the Master School of Welding and worked at the docks in Oakland as a shipyard welder, quickly rising through the ranks to foreman until his union barred all people of Japanese ancestry and his employment was terminated; and

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

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

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

WHEREAS, In 1982, with newly discovered evidence found by Peter Irons, a legal historian and attorney, and Aiko Herzig-Yoshinaga, a researcher, Fred Korematsu made the decision to reopen his 1944 conviction by petitioning for a writ of error coram nobis to have the wrongful conviction vacated. The task of retrying a legal case based on events 40 years past was complicated and novel, but a pro bono legal team composed mostly of Sansei (third generation Japanese Americans) was determined to undo the injustice perpetrated on Fred Korematsu and their own family members who were imprisoned along with Fred Korematsu; and

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

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

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

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

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

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

Resolved by the Assembly of the State of California, the Senate thereof concurring, That Tuesday, January 30, 2018, be observed as Fred Korematsu Day of Civil Liberties and the Constitution; and be it further

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

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

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