

Subject: Resolution No. 111-11A2

In Observation of the Fred Korematsu Day of Civil Liberties and the Constitution

- Commissioners Sandra Lee Fewer, Emily M. Murase, Kim-Shree Maufas, Hydra B. Mendoza, Rachel Norton, Jill Wynns, Norman Yee and Student Delegates Elvina Fan and Athena Creer

WHEREAS: The struggle for civil liberties has often been inspired by ordinary Americans who have had the courage to stand up and fight for their ~~basic~~ Constitutional rights; and

WHEREAS: Fred T. Korematsu was one of a few individuals who in 1942 refused to comply with the military orders issued under Executive Order 9066, which implemented the forced removal of over 120,000 persons of Japanese ancestry from their homes on the West Coast and their internment in America's concentration camps for the duration of World War II; and

WHEREAS: Mr. Korematsu believed that the military orders violated his basic rights and freedoms as an American under the U.S. Constitution, and represented by Ernest Besig of the American Civil Liberties Union of Northern California, chose to challenge the constitutionality of his arrest and conviction for violating the military orders; and

WHEREAS: In December 1944, the U.S. Supreme Court rejected Mr. Korematsu's challenge, effectively upholding the constitutionality of the internment of an entire ethnic community without charges of any crime or disloyal act, without legal representation, and without trial or conviction, on the ground that the responsible military commander had a reasonable basis to conclude that the West Coast Japanese American communities posed a threat to national security; and

WHEREAS: ~~In the following years, official governmental publication after the war of contemporaneous~~ reports from the Office of Naval Intelligence (ONI), Federal Bureau of Investigation (FBI), Federal Communications Commission (FCC), and ~~Army~~ the Army's Military Intelligence Division (MID) showed that none of the thousands of reports and rumors of Japanese American espionage or sabotage was ever validated, that no acts of espionage or sabotage by Japanese Americans ever occurred, that Japanese Americans were overwhelmingly loyal to the United States; and that the Japanese American communities posed no military or security threat to the United States; and

WHEREAS: Mr. Korematsu felt personally responsible for the Supreme Court's validation of the internment, and waited for almost 40 years for an opportunity to ~~re~~-challenge the U.S. Supreme Court decision in his case; and

WHEREAS: In 1982, Mr. Korematsu filed a petition for writ of error *coram nobis* in the San Francisco federal court charging that newly discovered evidence showed that the 1944 Supreme Court decision had been secured through ~~the government's a~~ deliberate fraud on the courts, including the ~~government's~~ knowing suppression of the ~~contemporaneous~~-ONI, FBI, FCC and ~~FCC-MID~~ reports, the destruction of the military commander's Final Report showing that ~~the his~~ decision to intern the entire West Coast Japanese American population was based on race prejudice; and the substitution of ~~a fabricated an altered~~ Final Report ~~purporting fabricated~~ to show that ~~the commander's his~~ decision was based on military considerations; and

In Observation of the Fred Korematsu Day of Civil Liberties and the Constitution

- Commissioners Sandra Lee Fewer, Emily M. Murase, Kim-Shree Maufas, Hydra B. Mendoza,
Rachel Norton, Jill Wynn, Norman Yee and Student Delegates Elvina Fan and Athena Creer

Page 2

WHEREAS: On November 10, 1983, at the federal district court held a hearing on Mr. Korematsu's of his coram nobis petition-at which, Mr. Korematsu said to the Court: "As an American citizen being put through this shame and embarrassment [of being interned for suspected disloyalty] and also all Japanese American citizens who were escorted to concentration camps suffered the same embarrassment, we can never forget this incident as long as we live. The horse stalls that we stayed in were made for horses, not human beings. According to the Supreme Court decision regarding my case being an American citizen was not enough. They say you have to look like one, otherwise they say you can't tell a difference between a loyal and a disloyal American. I thought that this decision was wrong and I still feel that way. As long as my record stands in federal court, any American citizen can be held in prison or concentration camps without a trial or a hearing. That is if they look like the enemy of our country. Therefore, I would like to see the government admit that they were wrong and do something about it so this will never happen again to any American citizen of any race, creed or color"; and

WHEREAS: On November 10, 1983, the Hon. Marilyn Hall Patel granted Mr. Korematsu's petition, finding that in order to secure Mr. Korematsu's conviction the government had corrupted the judicial process by its suppression, destruction and fabrication of material evidence, and ended her decision with the following observation on the meaning of the 1944 Supreme Court decision in Mr. Korematsu's case: "*Korematsu* remains on the pages of our legal and political history. As a legal precedent it is now recognized as having very limited application. As historical precedent it stands as a constant caution that in times of war or declared military necessity our institutions must be vigilant in protecting constitutional guarantees. It stands as a caution that in times of distress this shield of military necessity and national security must not be used to protect governmental actions from close scrutiny and accountability. It stands as a caution that in times of international hostility and antagonisms our institutions, legislative, executive and judicial, must be prepared to exercise their authority to protect all citizens from the petty fears and prejudices that are so easily aroused"; and

WHEREAS: The decision on Mr. Korematsu's *coram nobis* petition influenced the U.S. government's passage of the Civil Liberties Act of 1988, which recognized that the forced relocation and incarceration of Japanese Americans during World War II was not justified by military necessity or national security, but resulted from race prejudice, war hysteria, and a failure of political leadership; and

WHEREAS: For the rest of his life, until his passing on March 30, 2005, Mr. Korematsu dedicated himself to educating the American public, particularly school children and young people, about the history of the internment and to standing up for the rights of other groups, particularly Arab and Muslim Americans, targeted by similar suspicions and fears triggered by contemporary international hostilities and antagonisms; and

In Observation of the Fred Korematsu Day of Civil Liberties and the Constitution

- Commissioners Sandra Lee Fewer, Emily M. Murase, Kim-Shree Maufas, Hydra B. Mendoza,
Rachel Norton, Jill Wynns, Norman Yee and Student Delegates Elvina Fan and Athena Creer

Page 3

WHEREAS: On January 15, 1998, President Clinton awarded Mr. Korematsu the Presidential Medal of Freedom in recognition of his advocacy on behalf of all Americans for our constitutional rights and liberties, saying: "In 1942, an ordinary American took an extraordinary stand. Fred Korematsu boldly opposed the forced internment of Japanese Americans during World War II. After being convicted for failing to report for relocation, Mr. Korematsu took his case all the way to the Supreme Court. The high court ruled against him. But 39 years later, he had his conviction overturned in federal court, empowering tens of thousands of Japanese Americans and giving him what he said he wanted most of all -- the chance to feel like an American once again. In the long history of our country's constant search for justice, some names of ordinary citizens stand for millions of souls: Plessy, Brown, Parks. To that distinguished list, today we add the name of Fred Korematsu"; and

WHEREAS: California law designates certain days as having special significance, when public schools are encouraged to observe and conduct suitable commemorative activities as specified; and

WHEREAS: The History-Social Science Framework for California Public Schools, Kindergarten through Grade Twelve, states that the history curriculum at each grade level relating to community, state, region, nation and the world must reflect and integrate the experiences of men and women of different racial, religious and ethnic groups; and

WHEREAS: The California Assembly and State Senate both unanimously passed AB 1775, the Fred Korematsu Day of Civil Liberties and the Constitution, and Governor Arnold Schwarzenegger signed this bill into law on September 23, 2010.

THEREFORE BE IT RESOLVED: That the Board of Education of the San Francisco Unified School District encourages all schools and teachers to observe the Fred T. Korematsu Day of Civil Liberties and the Constitution on or near January 30 each school year, and to conduct activities commemorating the spirit and meaning of Fred Korematsu's life and recognizing the importance of preserving and protecting our civil rights and liberties, even in times of real or perceived crisis.

1/11/11