



Testimony of Kimberly McCullough, Legislative Director
In Support of SCR 14
Senate Committee on Rules
February 13, 2017

Chair Burdick and Members of the Committee:

The ACLU of Oregon wholeheartedly supports SCR 14, which would acknowledge the 75th anniversary of Japanese American internment during World War II and recognize the Day of Remembrance. As an organization dedicated to protecting civil liberties and human rights, the ACLU believes that it is crucial that we remember and learn from our history, so we do not repeat the mistakes of our past.

In February 1942, shortly after the Japanese attack on the United States at Pearl Harbor, President Franklin D. Roosevelt issued Executive Order 9066. About 120,000 Japanese Americans—two-thirds of them native-born U.S. citizens—had to register and report to assembly centers. They had just days to divest themselves of all they owned—their homes, farms and businesses. With just what they could carry, they were shipped off to federally run “internment camps,” imprisoned behind barbed wire and watched by armed guards.

Despite claims at the time that Order 9066 was justified by military necessity, the truth is it was instead motivated by racial animus and xenophobia, two things which should have no place in a country striving to achieve liberty and justice for all. In fact, crucial evidence proving the order was motivated by racism, not time pressure, was purposefully withheld from the Supreme Court, along with intelligence reports showing that Japanese Americans posed no credible threat to the United States.

As Justice Frank Murphy wrote, in his dissent to the shameful *Korematsu* Supreme Court decision,¹ “Racial discrimination in any form and in any degree has no justifiable part whatever in our democratic way of life.” Justice Robert Jackson, also dissenting, wrote that the court should not affirm the military order because “the principle then lies about like a loaded weapon, ready for the hand of any authority that can bring forward a plausible claim of an urgent need.”

Years later, in her 1984 opinion overturning *Korematsu*’s conviction, Federal District Court Judge Marilyn Hall Patel wrote, presciently, “In times of international hostility and antagonism, 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.”

¹ In *Korematsu v. United States*, 323 U.S. 214 (1944), the United States Supreme Court considered the constitutionality of Executive Order 9066, which ordered the incarceration of Japanese Americans during World War II regardless of citizenship. In a 6–3 decision, the Court sided with the government, ruling that the exclusion order was constitutional.

Then, while signing the Civil Liberties Act of 1988, legislation which admitted that Executive Order 9066 was based on “race prejudice, war hysteria and a failure of political leadership,” President Ronald Reagan called the incarceration “a great injustice” and apologized on behalf of all Americans.

Unfortunately, many of our leaders have become increasingly bold in unlearning these lessons from our past. Korematsu himself returned to the Supreme Court in 2004 to file a brief challenging the indefinite detention of prisoners at Guantanamo Bay. Now, there are some who argue that the World War II incarceration is justification for a Muslim registry.

This year, on the 75th anniversary of Executive Order 9066, we should remember the wrongs suffered by those who were incarcerated during WWII. We should remember those wrongs and strive to live our lives with the courage of those few brave individuals—like Oregon civil rights hero Minoru Yasui—who stood up for freedom in the face of such injustice.

For these reasons, the ACLU of Oregon urges your support of SCR 14.