

February 13, 2017

Testimony of Jim Stembridge

Oregon Legislative Assembly; Senate Rules Committee

Testimony on **SCR 14**

Members of the Committee –

I want to call your attention to a site on the Internet,

<https://anchoreditions.com/blog/dorothea-lange-censored-photographs> , which contains

**“Dorothea Lange’s Censored Photographs of FDR’s Japanese Concentration Camps”**, mostly unseen and unpublished until 2006, including photographs and quotations from the time that make the event very real and personal. (Photographs are for sale through the site). I have printed a small part of that site and request that it be included, along with a copy of the entire cite, in the committee’s records on SCR 14.

Ten weeks after the Japanese surprise attack on Peral Harbor, President Roosevelt issued Executive Order 9066 on February 19, 1942.

Almost three years later, the Executive Order was upheld by the Supreme Court, on a 6-3 vote, in 323 U.S. 214 (1944) *Korematsu vs. United States*, decided December 18, 1944. The *Korematsu* decision is sometimes listed, with *Dred Scott* and few others, as among the worst decisions ever made by the Supreme Court.

The same day, however, the Supreme Court handed down *Ex parte Mitsuye Endo*, 323 U.S. 283 (1944), unanimously ruling that the government could not continue to detain citizens who were “concededly loyal” to the United States. (See <http://caselaw.findlaw.com/us-supreme-court/323/283.html> ) Concurring, Justice Murphy stated “ . . . racial discrimination of this nature bears no reasonable relation to military necessity and is utterly foreign to the ideals and traditions of the American people.” The *Endo* decision led to the end of Japanese internment.

The shameful Japanese internment episode of American history is relevant today.

The *Endo* decision was most recently cited in last week’s Ninth Circuit Court of Appeals decision on Executive Order 13769, issued on January 17 of this year. The Circuit Court cited *Endo*, not unintentionally, as an example of previous federal court review of the constitutionality of executive action pertaining to national security. (See page 17 of the decision, available at <https://cdn.ca9.uscourts.gov/datastore/opinions/2017/02/09/17-35105.pdf> .)

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