

The Internment of Japanese-Americans in World War II

Instructor: Robert Finkelstein

Executive Order 9066

Public Law 503

Internment

Most of the Japanese–Americans were
released in early 1945

My Interests and Biases

Naturalization Act of 1790

Amended in 1795, and 1798 Under John Adams

Repealed in 1952 -McCarran-Walter
Immigration Act

Alien and Sedition Acts 1798 Quasi-War with
France

The Sedition Act and the Alien Friends Act were
allowed to expire in 1800 and 1801, respectively

Enemy Aliens Act did not expire

American Nativism

Nation of Immigrants

Irish Immigration

American Party – “Know Nothing”

Blaine Amendment

Nordic Race

14th Amendment

Post Civil War

Changed the balance with State Rights

United States v. Wong Kim Ark

In 1898 the Supreme Court decision
in granted citizenship to an American-born
child of Chinese parents

Not been tested with other people

Chinese and Japanese Immigration

Chinese were ridiculed Japanese were
praised this changed over time

Lived in their own communities – similar
to Irish, Italians, Jews, Polish, etc.

Japanese immigrants arrive in Hawaii -
1868

Japanese immigrants arrive to the
mainland United States 1869

Anti-Immigration Laws

Welcoming Europeans – Statue of Liberty

Chinese Exclusion Act is passed, prohibiting immigration from China. It was enforced between 1882 and 1892

San Francisco School Board passes a regulation sending all Japanese children to the segregated Chinese school

Russo-Japanese War

Feb. 8, 1904 Sneak Attack on the
Russian Fleet in Port Arthur

Japan was winning the war

Treaty in Portsmouth, NH – Teddy
Roosevelt – Noble Peace Prize

Non white race defeats white race

Theodore Roosevelt

Theodore Roosevelt (like Taft after him) used the influence of the White House to prevent open anti-Japanese discrimination

T. Roosevelt sought to restrict Japanese entry and settlement in the United States

Sent a powerful message to his younger cousin that the Japanese presence in America was dangerous and undesirable

More Restrictions

1906 - San Francisco School Board orders the segregation of 93 Japanese-American students

1907 - Congress passes an immigration law banning Japanese laborers from entering the United States through Hawaii, Mexico, or Canada.

1908 - The Japanese and U.S. governments negotiate the “Gentlemen's Agreement” whereby Japan agrees not to issue visas to laborers who want to emigrate.

Did not stop “Picture Brides”

Alien Land Laws

1913 - California passes the Alien Land Law, which denies “all aliens ineligible for citizenship” the right to own land in the state. Similar alien land laws are soon passed in Washington, Oregon, Idaho, Montana, Arizona, New Mexico, Texas, Kansas, Louisiana, Missouri, and Minnesota

1920 A second Alien Land Law adopted in California forbids the leasing of lands to aliens “ineligible for citizenship”

Steady Mistrust of Japan

Japan stops issuing passports to "picture brides" Halting their immigration from Japan to the U.S. 1920

Washington Naval Treaty 1922

Nordic Race – Eugenics

“Japs-A Habit of Mind” 1923

The Immigration Act of 1924, incorporating the National Origins Act, and Asian Exclusion Act bars all immigration from Japan

Citizenship - 1922

Takeo Ozawa v. U.S.- SCOTUS rules in the case of that U.S. citizenship is limited to “free white persons and aliens of African ancestry”

Congress passes the Cable Act. This law provides that anyone marrying an “alien ineligible for citizenship” will also lose their US. Citizenship

Common belief of a war with Japan

Court Marshall of Billy Mitchell

FDR and early relations with
Japanese

Growing concern of J-A in Hawaii

1934

Japan announced the *Amami* Doctrine, which claimed East Asia as Japan's special sphere of influence

Japan announced its determination not to renew the 5:5:3 ratio of capital ships

FDR in spring 1936, he made significant efforts to investigate and neutralize any possibility of disloyal activity

FDR efforts focused on the J-A residents of the then-territory of Hawaii, known in Hawaiian usage as the "local Japanese"

FDR mused that in the event of war with Japan some of the Japanese-Hawaiians would need to be placed in **concentration camps** (Roosevelt's words)

FDR did not make any similar effort to keep tabs on Americans of German or Italian ancestry during this period, despite the presence of Nazi agents in the United States and the propaganda activities of pro Axis groups such as the German Bund

ABC List

Group A were identified as “known dangerous” aliens

Group B were considered “potentially dangerous” but had not been thoroughly investigated

Group C were watched because of their pro-Japanese inclinations and propagandist activities

Government Internal Investigations

Munson Report – 1941

Ringle Report – 1942

December 7, 1941

Japanese Embassy in Washington

Ultimatum Delivered Late

Sneak Attack

Attack On Pearl Harbor

Kido Butai – “Attack Force” or “Strike Force”

No American-Japanese Subversion

Attack is tragic but not devastating

Sub Base

Oil storage fields

Repair and Dry Dock

Aircraft Carriers

Attacked the Battleships in shallow water – 6 re-serviced

Ni ihau Incident

December 7, 1941

Zero crash lands on Ni'ihau

Locals are unaware of the Pearl Harbor
Attack

Three J-A's assist the pilot

Hostages – Weapons

Pilot is killed by locals

Incident is used to show mistrust of J-A

Immediate Steps

Froze all assets of Japanese nationals as “enemy aliens”

Arrested as potential subversives some 2,000 Issei on the ABC list

All fishing boats owned by Japanese nationals beached

Suspended their licenses to sell produce in order to protect the food supply

Spoke hypothetically about taking over all J-A businesses and setting up concentration camps

Initially Favorable Treatment of J-A

J-A sent letters/telegrams to the
White House in support

Gen. DeWitt

FBI

FCC

Many Quick Japanese Victories

Previous to Pearl - fortified garrisons on
French Indochina, Thailand, Burma,
Malaysia , Philippines

Shortly thereafter attacked Wake, Hong Cong,
Burma

Air attack on Wake, Guam, and Luzon

Port Darwin in Australia, Java

Land based bombers sunk and destroyed the
HMS Prince of Wales and Repulse

3 months into the war, $\frac{1}{4}$ of the
Pacific was under Japanese
Control

All of the immediate goals of the
Japanese Empire were
accomplished

Very cruel treatment to American
POWs

TOKIO KID JAY-

BRING UP TEXELS
WASTE FOR SCRAP
JUST LIKE BULLETS
MAKE FOR JAP!
THANK YOU





OUR CARELESSNESS
Their Secret Weapon

PREVENT FOREST FIRES

Changes

Rumors of J-A subversion on radio

Greed of white farm owners

Racism: “It's a question of whether the white man lives on the Pacific Coast or the brown man”

Leland Ford: Catch-22

Canada removing Japanese from their west coast

DOJ vs. Sec. Of War and Army

Biddle and Ennis (DOJ)

Simpson, McCloy, DeWitt, and
Bendetsen

Final Report - Feb. 14, 1942

Cited Emp. Of Japan Victories

Loyalty of J-A to Japan - Kibei

J-A Unassimilated

Radio communications

Property near military bases

Conspiracy – “The fact that these [Japanese] have committed no acts of sabotage to date, is a disturbing and confirming indication that they will do so.”

Later Withdrawn by McCloy

Reissued in 1943 without the racist remarks

Executive Order 9066

Signed by FDR – Feb 19, 1942

FDR did not consult with Cabinet

Evacuation of West Coast

Charged the Army with the process

Provided for food and shelter for
evacuation

No provision for property

Later amended to allow for curfew
restrictions

Public Law 503

Provided legal actions for
violators of Executive Order
9066

Rushed to vote

Passed with almost debate

Property

Roosevelt Warned

Voluntary Evacuation

Very poor arrangement

Assistance – Execution

Fire sale

Mortgage payments

Escheat actions, legal proceedings to
absorb vacant land

Voluntary Evacuation to Internment

No Sponsorship

Limit of Funds

Property Left Behind

Hostile Mountain States

10,000 J-A moved to eastern CA – that became part of exclusion zone

Wartime Civil Control Administration (WCCA)

Assembly Centers

The evacuees remained under guard, living in stables and animal pens, for weeks or months while the army began to erect relocation centers

Negative Press and WRA

WRA – defacto approval of internment?

Milton Eisenhower led the WRA
– resigned shortly thereafter

Dept. of Interior took over

Japanese-Americans on Hawaii

Very strong pressure to intern

Mainland Option

Facilities on a remote Hawaiian Island

Roosevelt supported internment

Different General:- Delos Carleton

Emmons

California firing Nisei employees

The state personnel board questioned their loyalty and charged them with “failure of good behavior, fraud in securing employment, incompetency, inefficiency, and acts incompatible with and inimical to the public service”

Doolittle Raid

16 Mitchells left Hornet

Embarrassment – Blow to
pride

U.S. Breaks most of the JM25
code

250,000 Chinese Killed

Midway Atoll

Seeking the Decisive Battle ■ 103



Midway – June 4, 1942

Kido Butai – missing Shokaku (badly damaged) and Zuikaku (most of the planes destroyed) at the Battle of Coral Sea

Victory Fever

Yorktown (badly damaged), Hornet, Enterprise, and Midway Island

Kaga, Akagi, Soryu, and Hiryu
(Confirmed on June 19) sunk

Yorktown sunk

June 19, 1942

With Kido Butai sunk, Japan had lost the war

No longer a threat to the U.S. West Coast

McArthur started his island hopping knowing the Kido Butai was gone

By the end of 1943 the U.S. had 8 Essex Class carriers in the Pacific with 16 more in various building stages...and producing 100,000 airplanes a year...the combined production of airplanes from Russia, Germany, England, and Japan was 40,000 a year

The Relocation Camps

10 Camps

Tule Lake – segregation facility - used for problem internees

Barracks Style

No Privacy

Shared eating – poor quality food

Shared bathrooms

Poor ventilation/heating

Mail order clothing

Very low wages

Video

War and MAGIC

1943

Loyalty Questionnaire

Undoing a bad policy

Supreme Court Cases

Camp unrest

DeWitt continues to maintain J-A
are a threat

Loyalty Questionnaire

Questions 27 and 28

-
27. Are you willing to serve in the armed forces of the United States on combat duty, wherever ordered? _____
 28. Will you swear unqualified allegiance to the United States of America and faithfully defend the United States from any or all attack by foreign or domestic forces, and forswear any form of allegiance or obedience to the Japanese emperor, or any other foreign government, power, or organization? _____

Supreme Court Cases

Yasui v U.S. – Curfew Violation

Hirabayashi v. U.S. – Curfew
Violation

Korematsu v U.S. – Evacuation
Violation

Ex Parte Endo - Writ of *habeas
corpus*

ACLU and Judicial Ethics

The lawyers who represented Hirabayashi and Korematsu were recruited by local ACLU branches

The ACLU lawyers initially attacked the constitutionality of the presidential order that authorized the internment program

Due to ACLU personal and partisan loyalty to FDR, their national board decides to bar such a constitutional challenge in subsequent appeals

Profound Questions of Legal Ethics and Professional Responsibility for Lawyers

- Code of ethics that requires them to "zealously" represent the interests of their clients.
- Examination of witnesses at trial, their presentation of oral testimony and documentary evidence, their framing of legal briefs, and their arguments to appellate courts, lawyers are bound by the dictates of the adversary system to present the **strongest case possible**
- It is the task of opposing lawyers to probe the weaknesses in these cases and to offer countering evidence and arguments

- Lawyers not only represent their clients but also function as officers of the courts, sworn to canons of fairness and justice.
- The same code of ethics-supported by judicial decisions-requires that lawyers present to the courts only that evidence they know to be truthful, and that they contain their briefs and arguments within the bounds of the trial records.
- In addition, lawyers are commanded to avoid any appeal to racial prejudice. Violations of this injunction constitutes a serious breach of legal ethics

Sadly, DOJ failed in their Judicial Ethics as well

Minoru (Min) Yasui

Born in 1916 Hood River, Oregon.

Father was a prominent J-A community leader

Raised in the Methodist church

Entered the **University of Oregon** in 1933

Army Reserve officer 2nd Lieutenant in the Army Infantry Reserve

Attended the **University of Oregon Law School**

Passed the Oregon state bar examination later that year

Obtained a **job working for the Japanese consulate in Chicago** resigned
Pearl Harbor

He tried to **report for duty, he was told that he was unacceptable for
service and ordered off the military base.** Despite being commissioned
as an Army Reserve officer,

His father, Masuo, was arrested and sent to a Department of Justice camp
in Missoula, Montana.

Not allowed to be represented by a lawyer during his loyalty hearing,

DOJ officials classified *his* father as a potentially "*disloyal*" alien because of an award he had received from the emperor of Japan before the war.

Yasui decided to challenge the government's orders when General John DeWitt ordered **Military Proclamation 3**.

Yasui believed that placing restrictions on Japanese Americans and not on other U.S. Citizens violated the "equal protection" clause of the U.S. Constitution.

Given up his U.S. citizenship by working for the Japanese consulate
Whether Public Law 503 was constitutional as it applied to U.S. citizens.

The decision took a long time. ***Under Milligan, the courts ruled that martial law could not exist when the courts were open.*** which had to do with the rights of citizens under martial law during the Civil War.

Yasui's training as an attorney was the backdrop for his challenges to the curfew and evacuation orders. He believed that the orders were unconstitutional as applied to U.S. citizens

Min Yasui was the legalist

Gordon Kiyoshi Hirabayashi

Born in Auburn (near Seattle), Washington, in 1918.

Lived between the culture of his Japanese-born parents and American society.

Educated in American schools, was a senior patrol leader, and achieved the rank of Life Scout in the Boy Scouts.

Parents belonged to a Japanese pacifist religion called Mukyo-kai.

Translated it meant “**Nonchurch Movement**” similar to those **Quakers**.

Entered the **University of Washington** in 1937 and was active involved student.

Sought spiritual and religious solace in different organized religious groups near campus, close to his own religious upbringing.

Hirabayashi was a senior at the university when the war broke out.

He began to **question the necessity of curfew** and several times **knowingly violated the 8 P.M. curfew orders**.

Hirabayashi refused to report and register for evacuation. “I consider it my duty to maintain the democratic standards for which this nation lives. Therefore, **I must refuse this order for evacuation**”

He obeyed the curfew until the evening of May 4, (unaware of Min Yasui's challenge to it more than a month before).

In expressing through his act of **resistance the separate commandments of the Christian and constitutional authority**, Gordon Hirabayashi exemplified a second type of challenger: **the moralist.**

Fred Toyosaburo Korematsu

Born in Oakland, California, in 1919.

Graduated from Oakland High in 1938, and briefly attended Los Angeles City College

Later a **Master School of Welding** in Oakland After Pearl Harbor, the **union expelled all of its members of Japanese ancestry.**

When he tried to **register for the draft**, he was **turned down because of a medical condition**

He wanted to be with his Italian American girlfriend, Ida Bonita.

Had minor cosmetic surgery to change his appearance to look "less" Japanese and tried to pass as Chinese

Because he had **not reported for evacuation**, **Korematsu was in violation of the law**

The Korematsu case raised a number of issues, the most critical one was whether Korematsu's **due process rights were being violated by his being forced to evacuate**

Fred Korematsu, in contrast, hoped to evade the exclusion order and seemed to be motivated solely by personal interest - unlike Min Yasui and Gordon Hirabayashi

There is considerable evidence that he had an **equal devotion to constitutional principle** in offering himself as a test case challenger.

In refusing to obey the exclusion order, Fred Korematsu personified a third type of constitutional challenger: **the loner/victim**

Mitsuye Endo

The Privilege of the Writ of Habeas Corpus shall not be suspended, unless when in Cases of Rebellion or Invasion the public Safety may require it.

ARTICLE I, SECTION 9, CLAUSE 2

Mitsuye Endo was born in Sacramento, California, in 1920.

Clerical worker for the Department of Motor Vehicles for California terminated from her job because of her Japanese ancestry

She was **already at Tanforan Assembly Center** and was approached by attorneys to test whether it was legal for the government to detain her

She was **selected to test the internment:**

- U.S. Citizen,
- Did not speak Japanese,
- Her parents had never returned to Japan
- Her brother serving in the U.S. Army.
- She could be presented as a "loyal" citizen who despite her ancestry was clearly a model U.S. citizen.
- She had answered affirmatively to the loyalty questionnaire
- She had never been charged with any crime.

The petition requested her release

The **War Relocation Authority** wanted to avoid a **Supreme Court** test case (they knew her case was valid).

They **offered to release** Endo if she promised not to enter the restricted West Coast area.

Usually *habeas corpus* cases are to be heard immediately, but it took almost a year before the federal courts decided on her case.

A defendant in a case is allowed to post bail and be released while the case is pending - denied to Endo

Endo **heroically refused to abandon the legal case** and **remained in camp for two more years**

Her *habeas corpus* petition was denied, and it was appealed.

In this respect, Mitsuye Endo exemplified a unique type of constitutional challenger: **the recruit**.

“A Jap’s a Jap”

DeWitt prevents loyalty hearings –
“A Jap’s a Jap”

1942 Final Report is replaced by
1943 Final Report

Assist. Sec. Of War, John McCloy -
egregious manipulation of evidence

Eleanor Roosevelt

1942 – Silent because she believe in possible 5th column

“innocent people suffer for a few guilty ones”

1943 - no acts of sabotage or espionage had been committed by Japanese Americans

Visited the Gila River camp - her presence made clear her sympathy

Devoted her syndicated daily newspaper column to praising the efforts of the internees to grow their own food, ameliorate the harsh desert climate and the ugliness of the hastily constructed camps

Publicly supported resettlement

House Un-American Activities Committee

Slanted “investigation” into the “collusion”
anti-WRA witnesses - unfounded and absurd
charges that the agency had collaborated with
pro-Axis groups

Governor Earl Warren, “we don't propose to
have the japs [*sic*] back in California during
this war if there is any lawful means of
preventing it”

“If the Japs are released no one will be able to
tell a saboteur from any other jap”

442nd Regiment and 100th Company

Half of the eligible J-A volunteered to serve

442 mainland J-A – 100 Hawaiian J-A

difficulties in being allowed to leave bases

DeWitt (Bendetsen) didn't want them in CA

Highest Decorated regiment

522nd Field Artillery Battalion

232nd Combat Engineer Company

Curfew Cases Decided by SCOTUS

Hirabayashi and Yasui rulings appeared on June 21, 1943.

Chief Justice Harlan Fiske Stone: “**some infringement on individual liberty**” was allowable in time of war and that the government could adopt “**measures for public safety, based upon recognition of facts and circumstances which indicate that a group of one national extraction may menace that safety more than others.**”

Three concurring opinions Douglas, Rutledge, and Frank Murphy. Murphy's, initially drafted as a dissent, wrote that “**today is the first time, so far as I am aware that we have sustained a substantial restriction of the personal liberty of citizens of the United States based upon the accident of race or ancestry.**”

Curfew – Evacuation

Gordon Hirabayashi challenged
the curfew restriction and the
evacuation order

SCOTUS only ruled on the curfew

Nothing on evacuation

Resettlement - 1944

US Govt. started to hire J-A

Needed to undo the neg.

propaganda

Roosevelt's plan for disbursement
and assimilation

DeWitt Replaced by Emmons

Missing Footnote

DeWitt's claims that Japanese Americans had committed acts of espionage were untrue

The contrary investigations by the FBI, the FCC, and the ONI (Ringle Report) led to a showdown with Assistant Sec. of War McCloy and DOJ (determined to alert the Supreme Court to the falsity of DeWitt's charges)

Ennis had inserted a crucial footnote in the government's Supreme Court brief in the Korematsu case, informing the Court of the contrariety evidence on the espionage allegations

Justice Department records McCloy intervened with Solicitor General Charles Fahy and prevailed on him to **remove this explicit confession** from the brief

Ennis felt this conflict keenly during the war - later confessed their complicity in depriving J-A of their constitutional rights

Ennis, forced to choose between his professional role and the demands of his conscience, swallowed his doubts and signed the government's brief in the Korematsu case

Ex parte Endo – habeas corpus

Summer 1944 – no invasion/no 5th column activity

Breakout in France

Grinding out victories in the Pacific

DOJ knew and advised FDR that Endo (and the J-A internees) would be granted freedom by SCOTUS

FDR could have released most on the J-A interned

Running for re-election and wanting more

Congressional house seats in CA - FDR

choose to wait until after the election

Internees wait six additional months for freedom

December 17, 1944

Sunday

2nd day of the Battle of the Bulge

Italian Armistice Terms

FDR announces release of J-A
Internees

The next day the SCOTUS
announces its decisions on
Korematsu and Endo

Korematsu Decision

Split Decision 6 – 3 Hugo Black wrote the opinion of the court

. . . we cannot reject as unfounded **the judgment** of the **military authorities** and of Congress that there were disloyal members of that population, whose number and strength could not be precisely and quickly ascertained. We cannot say that the war-making branches of the Government did not have ground for believing that, in a critical hour, such persons could not readily be isolated and separately dealt with, and **constituted a menace to the national defense and safety which demanded that prompt and adequate measures be taken to guard against it.**

Justice Robert Jackson's dissent: "Korematsu ... has been convicted of an act not commonly thought a crime,..."

"It consists merely of being present in the state whereof he is a citizen, near the place where he was born, and where all his life he has lived." The nation's wartime security concerns, he contended, were not adequate to strip Korematsu and the other internees of their constitutionally protected civil rights.

Justice Owen Roberts also dissented, arguing that a relocation center “was a euphemism for prison,” and that faced with this consequence Korematsu “did nothing.” Also dissenting, Justice Frank Murphy harshly criticized both the majority and the military order, writing that the internment of the Japanese was based upon “the disinformation, half-truths and insinuations that for years have been directed against Japanese Americans by people with racial and economic prejudices.”

Endo Decision

Unanimous Court

Douglas wrote the opinion of the court:

“We are of the view that **Mitsuye Endo should be given her liberty**. In reaching that conclusion we do not come to the underlying constitutional issues which have been argued. For we conclude that, whatever power the War Relocation Authority may have to detail other classes of citizens, it has **no authority to subject citizens who are concededly loyal to its leave procedure.**”

Closing The Camps – Jan. 1945

Most of the Nisei were eager to be released

Many Issei were unhappy with no resources in a hostile outside society.

The WRA most of the camps emptied and dismantled

Resettlement 1945

Significant fraction of the internees resettle east of the Rockies

Most residents chose to return to the Pacific Coast, as did a substantial percentage of those who had initially been resettled elsewhere.

By the end of the war, some 50 percent of the formerly interned population was residing in the three West Coast states.

The returnees suffered great hardship.

The majority were unable to acquire or regain their farm property and were forced to seek employment as tenant farmers or as laborers in urban areas

Even those who did regain their land were harassed by enforcement of state alien land acts

California - "escheat" actions

Oregon legislature passed a harsh new Alien Land Act (1948, SCOTUS declared their enforcement unconstitutional)

Housing was difficult to secure-much of the living space in the prewar Little Tokyos had been taken by African Americans

Returning internees had little money to spend on rent or other necessary living expenses

The federal government, discouraged resettlement on the Pacific Coast, provided scant financial aid.

State governments, already ill-equipped for the task of absorption and heavily influenced by anti-Japanese sentiment, offered only limited monetary support

Anti-Japanese Mobs

West Coast whites - formed numerous anti-Japanese organizations

Demonstrated in favor of permanent exclusion, made returning especially difficult

The returnees were confronted with outbreaks of racial violence in addition to the daily hostility and prejudice to which they were subjected.

The WRA reported 34 separate incidents of violence against Japanese Americans

White mobs beat and fired bullets into the houses of Japanese Americans, and arsonists destroyed their property

FDR remained aloof

Made no speeches or public statements during this period concerning J-A or the violence against them

White House awarded a Presidential Distinguished Unit Citation to the all-Nisei 442nd Combat Team in March 1945.

The President's health deteriorated markedly after Election Day

Preoccupied with war and diplomatic matters, notably the Yalta Conference.

People (inside and outside) the administration tried vainly to interest him in the situation of the returnees. Around Christmastime Ickes sent him an autographed copy of *Born Free and Equal*, by photographer Ansel Adams

Attempts for Justice and Restitution

In 1948, Congress passed the Evacuation Claims Act to seek compensation from the U.S. government for losses they incurred as a result of their incarceration. Their claims were limited to “damage to or loss of real or personal property,” which was not covered by insurance and was a reasonable consequence of the evacuation and exclusion.

Difficult to make estimates about property and income loss during the period of evacuation - IRS had already destroyed most of its 1939 to 1942 income tax records

26,568 claims were filed for an amount totaling \$148 million, the government paid only \$37 million in compensation

Only a small percentage of people actually received compensation for their losses

The government paid about ten cents for every dollar of property lost because former internees had to have documents proving their losses

Rescinding 9066

Proclamation 4417 - Feb. 20, 1976

We now know that we should have known then-not only was that evacuation wrong, but Japanese-Americans were and are loyal Americans. On the battlefield and at home, Japanese-Americans...have been and continue to be written in our history for the sacrifices and the contributions they have made to the well-being and security of this, our common Nation....

I call upon the American people to affirm with me this American Promise-that we have learned from the tragedy of that long-ago experience forever to treasure liberty and justice for each individual American, and resolve that this kind of action shall never again be repeated.

Restitution and an Apology

The campaign for redress began in the early 1970's

Calling for a \$25,000 compensation sum

Japanese Americans were never fully compensated for the losses from forced evacuation.

Goals was to pursue the formation of a fact-finding commission

- investigate the primary reason for the evacuation and relocation program
- the oft-cited government belief that military necessity lay behind the evacuation

In 1980, Congress passed Public Law 96-317 that established the Commission on Wartime Relocation and Internment of Civilians

In 1981, the commission heard oral testimony from more than 750 witnesses. The results of the research are reported in the commission's report, *Personal Justice Denied* (1982).

Also discussed - the removal of 1,875 residents of Japanese ancestry from Hawaii, the removal and internment of German and Italian aliens, and the detainment of Japanese from Latin America

In its February 1983 report to Congress, the Commission on Wartime Relocation condemned the internment of Japanese Americans as a “grave injustice” and as the produce of decisions “conceived in haste and executed in an atmosphere of fear and anger at Japan.” The commission's members agreed without dissent that “Executive Order 9066 was not justified by military necessity” but had been prompted instead by “race prejudice, war hysteria and a failure of political leadership.”

Formal apology that Congress made on behalf of the U.S. government and the American people

Their payments were accompanied by a letter signed by President George H.W. Bush (41) - October 1990

82,219 persons received the full \$20,000 in redress payments

Error Coram Nobis

“the error before us”

Peter Irons was doing research on the Japanese American and Supreme Court (1981).

FOIA request for classified documents showed that the government had suppressed evidence and presented information to the Supreme Court

Contained “lies” and “intentional falsehoods” regarding the necessity for military evacuation

Also discovered military files that showed that the War Department destroyed and altered key material to these cases.

Korematsu, Yasui, and Hirabayashi filed to have their cases reopened and their convictions removed

Coram allows people who has been convicted to challenge that conviction once they have already served their sentence

Done only when the original trials had some “fundamental error”

The three cases were tried at different times and venues.

Their convictions were overturned

None of the *coram nobis* cases reached the U.S. Supreme Court in the 1980s, the constitutional interpretation of the **wartime cases remains the law of the land**

1998 Fred Korematsu, awarded
Presidential Medal of Freedom

"Fred Korematsu Day of Civil Liberties
and the Constitution" (2011) California

Korematsu Institute

2012 Gordon Hirabayashi, awarded
Presidential Medal of Freedom
(posthumously)

The City and County of Denver owns an
office building named after Yasui

DOJ and Missing Footnote

May 24, 2011, the U.S. Acting Solicitor General delivered the keynote speech marking Asian American and Pacific Islander Heritage Month.

Justice Department's first public confession of its 1942-1944 ethics lapse(s).

Cited the Hirabayashi and Korematsu cases as blots on the reputation of the Office of the Solicitor General

Stating that SCOTUS explicitly considers the Solicitor General as deserving of “special credence” when arguing cases

“an important reminder” of the need for absolute candor in arguing the United States government's position on every case

2014

Eleven lawyers who had represented Korematsu, Hirabayashi, and Yasui (to nullify their convictions) sent a letter, to Solicitor General. The lawyers asked the Solicitor General to request the Supreme Court to overrule its decisions on Korematsu, Hirabayashi and Yasui.

If the Solicitor General doesn't do this, they asked that the United States government "make clear" that the federal government "does not consider the internment decisions as valid precedent for governmental or military detention of individuals or groups without due process of law"

Lessons Learned?

Inter arma silent leges (in time
of war the laws are silent)

Lincoln, Wilson, FDR, current wars
Could it happen again?

Thank You