

What did justice mean for Mr. Korematsu?



Image from the Fred T. Korematsu Institute, Online, <http://www.korematsuinstitute.org/fred-t-korematsu-lifetime>

Supporting Questions

1. Mr. Korematsu assumes great risks with the decision to challenge his unlawful imprisonment. What does Mr. Korematsu's willingness to assume these risks say about his quest for justice?
2. How does the result in the U.S. Supreme Court case, *Korematsu vs. United States* (1944), shape Mr. Korematsu's views on the importance of pursuing justice?
3. What were the results of Mr. Korematsu's quest for justice? How did his efforts shape his life?



Fred Korematsu (in the foreground) and his family in the family's flower nursery business in Oakland, CA, 1939 (Photo Courtesy of the Fred T. Korematsu Institute).

What did justice mean for Mr. Korematsu?

North Carolina Social Studies Standards	Essential Standard AH2.H.7: Understand the impact of war on American politics, economics, society and culture.
Staging the Compelling Question	Students view the two images (above) of Mr. Korematsu, as a young man with his family and as an older man campaigning for justice. Students will use the two images to consider what Mr. Korematsu might have been pursuing as justice and why, drawing on their background knowledge and previous understanding.

Supporting Question 1
Mr. Korematsu assumes great risks with the decision to challenge his unlawful imprisonment. What does Mr. Korematsu’s willingness to assume these risks say about his quest for justice?
Formative Performance Task
Chalk Talk Reflection: In student groups of 3-4, students work together to first identify the risks Mr. Korematsu took and then answer the supporting question above.
Featured Sources
<p>Source A: Segment of a documentary published by The Constitution Project on Japanese American Internment and Mr. Korematsu</p> <p>Source B: Full biography of Mr. Korematsu</p> <p>Source C: PBS/Korematsu Institute video titled, “Fred Korematsu – And Then They Came for Us:”</p>

Supporting Question 2
How does the result in the U.S. Supreme Court case, <i>Korematsu vs. United States</i> (1944), shape Mr. Korematsu’s views on the importance of pursuing justice?
Formative Performance Task
Write a headline for a newspaper article about the case. Your headline should capture a key aspect of the case which you believe is compelling or significant and reflects Mr. Korematsu’s views on the importance of pursuing justice. The class will then share headlines and discuss.
Featured Sources
<p>Source A: Selected excerpts from the majority opinion and dissent in <i>Fred Toyosaburo Korematsu vs. United States</i>, 323 U.S. 214, (1944).</p> <p>Source B: Text of Executive Order 9066, resulting in the Internment of Japanese Americans, published by U.S. National Archives.</p> <p>Source C: Video excerpts of a 2002 interview of Mr. Korematsu at the Robert H. Jackson Center</p>

Supporting Question 3
What were the results of Mr. Korematsu’s quest for justice? How did his efforts shape his life?
Formative Performance Task
Write a persuasive or expository newspaper-type article explaining the story and providing your answer to these two questions: What were the results of Mr. Korematsu’s quest for justice? How did his efforts shape his life? Finally, provide your views on the significance of the decision.
Featured Sources
<p>Source A: Selected excerpts from the Judge’s opinion in <i>Korematsu v. United States</i>, 584 F. Supp. 1406 (N.D. Cal. 1984).</p> <p>Source B: PBS/Korematsu Institute video titled, “Current Day Challenges & Activism – And Then They Came for Us”</p>

Summative Performance Task	<p>ANALYSIS Create a slide presentation with evidence that analyzes the story of Mr. Korematsu and provides <u>your</u> answer to the question, “What did justice mean for Mr. Korematsu?”</p> <p>ARGUMENT As a final part of your slide presentation, use evidence and construct an argument as to why Mr. Korematsu’s quest for justice remains important today.</p>
Taking Informed Action	<p>UNDERSTAND What should we remember about Mr. Korematsu’s quest for justice?</p> <p>ASSESS Considering all the actions Mr. Korematsu undertook in his life in his pursuit of justice, which ones do you consider most important to remember?</p> <p>ACT Based on your understanding of Mr. Korematsu’s quest for justice, use your slide presentation to emphasize how Mr. Korematsu can be best remembered as we consider the actions of political leadership in the United States today and in the future.</p>

OVERVIEW

Following the attack on Pearl Harbor in December of 1941, anti-Japanese American racist sentiment in the United States provided the sole impetus for President Roosevelt to issue one of the most infamous wartime orders in United States history – Executive Order 9066 (February 1942). There was no actual evidence of any collusion with the Japanese Empire by Japanese Americans, and no Japanese American was ever charged or convicted of a crime against the national security of the United States. Despite this, March of 1942 sees the beginning of a series of military orders which result in the unlawful imprisonment of over 120,000 Japanese Americans. Fred Korematsu was one of those interred.

What makes Mr. Korematsu’s case unique is that he challenged his internment by refusing to willingly submit to his forced incarceration. Without due process, he was arrested, imprisoned, and eventually sent to an internment camp at Topaz, UT. Despite being shunned by his family and other members of the Japanese American community, Mr. Korematsu persisted in pursuing justice in his case, first a case which was decided by the U.S. Supreme Court in 1984 and later in a Federal District Court case which overturned his conviction in 1984. Mr. Korematsu spent the rest of his life educating people about the facts of his case and, in so doing, making every effort to ensure nothing like what was done to the Japanese American people could ever happen again in the United States. This inquiry seeks to address one of the great human rights atrocities in American history and the question – what did justice mean for Mr. Korematsu?

Structure

This inquiry is structured with three supporting questions which serve to break down the compelling question for the unit. Each supporting question unpacks a key aspect of the compelling question, is supported with credible and compelling primary and secondary sources, and is a question which students can both answer and provide reflection. The performance tasks are varied but build upon each other and ultimately support the summative performance task, as well as the final step – taking informed action. The questions are designed to help foster inquiry into Mr. Korematsu’s life, his quest for justice, and the aspects of that quest which remain important today.

Essential Standard AH2.H.7: Understand the impact of war on American politics, economics, society and culture.

Clarifying Objective AH2.H.7.3: Explain the impact of wars on American society and culture since Reconstruction (e.g., relocation of Japanese Americans, American propaganda, first and second Red Scare movement, McCarthyism, baby boom, Civil Rights Movement, protest movements, ethnic, patriotism, etc.).

STAGING THE COMPELLING QUESTION

Students' first encounter with Mr. Korematsu depicts him as an elderly man under a headline that refers to his fight for justice. The students next encounter him as a young man, surrounded by family in the midst of their on-going family business. This man has spent a lifetime struggling to achieve an important idea in American society: justice. Students hopefully begin to consider what might motivate a person to engage in such a lifetime struggle and begin to engage with the humiliating and devastating impact of the internment of Japanese Americans during World War II.

We suggest projecting these first two images of Mr. Korematsu in succession and invite students to discuss their observations:

- What are your observations from this image?
- What, if any, conclusions can we draw?
- What questions do you have?

Teachers may also want to highlight the degree to which anti-Japanese Empire sentiments immediately translated into racist depictions of and acts against Japanese Americans after the attack on Pearl Harbor.

In addition, referencing the first image of Mr. Korematsu under a headline, teachers can further ask students to consider:

- Was winning in court in 1944 even possible?
- What might have made it possible?

Supporting Question 1: Mr. Korematsu assumes great risks with the decision to challenge his unlawful imprisonment. What does Mr. Korematsu’s willingness to assume these risks say about his quest for justice?

Prior to examining the supporting sources for this question, ask students to keep in mind the following questions:

- How do you think Mr. Korematsu might have felt when he decided to resist what he believed was his unlawful imprisonment?
- What might have been some of the things he considered before resisting?

Students watch Supporting Source A: Segment of a documentary published by The Constitution Project on Japanese American Internment and Mr. Korematsu:

<https://www.youtube.com/watch?v=6mr97qyKA2s> Should teachers wish to show more of this documentary, the entire documentary can be found at:

<https://www.theconstitutionproject.com/portfolio/korematsu-and-civil-liberties/>

Students read Supporting Source B: Full biography of Mr. Korematsu:

<http://www.korematsuinstitute.org/fred-t-korematsu-lifetime>

Students watch Supporting Source C: PBS/Korematsu Institute video titled, “Fred Korematsu – And Then They Came for Us:” [https://unctv.pbslearningmedia.org/resource/fred-korematsu-](https://unctv.pbslearningmedia.org/resource/fred-korematsu-video/korematsu-institute/)

[video/korematsu-institute/](https://unctv.pbslearningmedia.org/resource/fred-korematsu-video/korematsu-institute/)

Formative Performance Task

Chalk Talk Reflection Routine: In student groups of 3-4, students work together to first identify the risks Mr. Korematsu took and then answer the supporting question above. Suggest conducting this exercise in silence in order to provide students with a safe space introduction to articulating their thoughts and ideas about this subject.

Step 1: Provide students with a large sheet of paper and writing utensils. On the paper, draw a line down the center with the supporting question at the top. On one side of the paper (in writing), ask students identify the potential risks, and on the other side, ask students to answer the prompt: What does Mr. Korematsu’s willingness to assume these risks say about his quest for justice?

Step 2: Allow time for students to think and to write their ideas down. Encourage students to read what their fellow group members have written and respectfully add to each other’s comments.

Step 3: Rotate the students by group to the other groups’ papers one at a time and encourage them to add their comments and questions to the paper. Teachers can monitor student progress and prompt students about the types of responses they can write. These may include elaborating on others ideas, commenting on what others have written, asking questions about what others have written, posing questions about what they would like to see answered through the inquiry, and asking others to respond with more detail. The teacher should be an active participant in this exercise.

Finally, after rotating through all the groups, students should return to their original paper to read what others have written on their paper. Debrief the process to ask the group how their thinking has developed/evolved on the questions during the exercise.

As a formative assessment, teachers should look for substantive ideas that relate to identification of risks and reflection as to how the assessment of those risks relates to Mr. Korematsu's quest for justice. Are students formulating their own ideas or drafting off the ideas of others? Are students able to consider and reflect on the ideas of other students? At a minimum, students should be able to connect the ideas of potential conviction and incarceration, as well as the loss of family respect and connections, to the idea of justice.

For a fuller discussion of a Chalk Talk routine, see, Ritchhart, R., Church, M., & Morrison, K. (2011). *Making Thinking Visible - How to Promote Engagement, Understanding, and Independence for All Learners*. San Francisco: Jossey-Bass, pp. 78-83.

Supporting Question 2: How does the result in the U.S. Supreme Court case, *Korematsu vs. United States (1944)*, shape Mr. Korematsu's views on the importance of pursuing justice?

Students read Source A: Selected excerpts from the majority opinion and dissent in **Fred Toyosaburo Korematsu vs. United States, 323 U.S. 214, (1944)**. (See Appendix A).

Students read Source B: Text of Executive Order 9066, resulting in the Internment of Japanese Americans, published by U.S. National Archives. (See Appendix B).

Student Watch Source C: Video excerpts of a 2002 interview of Mr. Korematsu at the Robert H. Jackson Center: <https://www.youtube.com/watch?v=iQeOm8RWhTA>

Formative Performance Task

Headlines Routine: Assume you have read the 1944 Supreme Court decision and interviewed Mr. Korematsu. Write a headline for a newspaper article about the case. Your headline should capture a key aspect of the case which you believe is compelling or significant and reflects Mr. Korematsu's views on the importance of pursuing justice. The class will then share headlines and discuss. Finally, teachers can create a collection of headlines written by the students, post them in the classroom, and ask the students to search for common themes between the headlines they created.

As a formative assessment, teachers should look for the students to have crafted a headline that demonstrates that they know the facts of the case and that they understand Mr. Korematsu's views on the importance of pursuing justice. Moreover, does the headline convey these facts and concepts in a distilled manner? Does it grab one's attention, as we would expect a headline to do? In this way, it serves as a check for knowledge and understanding of the material encompassed by the supporting question.

For a fuller discussion of a Headlines routine, see, Ritchhart, R., Church, M., & Morrison, K. (2011). *Making Thinking Visible - How to Promote Engagement, Understanding, and Independence for All Learners*. San Francisco: Jossey-Bass, pp. 111-118.

Supporting Question 3: What were the results of Mr. Korematsu’s quest for justice? How did his efforts shape his life?

Students read Source A: Selected excerpts from the Judge’s opinion in **Korematsu v. United States, 584 F. Supp. 1406 (N.D. Cal. 1984)**.

Students watch Source B: PBS/Korematsu Institute video titled, “Current Day Challenges & Activism – And Then They Came for Us” <https://www.youtube.com/watch?v=iQeOm8RWhTA>

Formative Performance Task

Telling Mr. Korematsu’s Story: Assume you are a reporter covering important court cases and that you have just heard that Mr. Korematsu’s conviction has been overturned. Create a new headline and write a persuasive or expository newspaper-type article explaining the story and providing your answer to these two questions: What were the results of Mr. Korematsu’s quest for justice? How did his efforts shape his life? Finally, provide your views on the significance of the decision.

We recommend students’ article be should be no more than one page, typed, and single spaced. It should contain a headline which is compelling or significant and reflects Mr. Korematsu’s efforts to pursue justice. The article should include an introduction acquaints the readers with the story of Japanese American internment during WWII, linking that with the facts of Mr. Korematsu’s case. The body of the article should describe Mr. Korematsu’s efforts to pursue justice, first in the 1940s and then in the 1980s. The article should contain a conclusion which links the discussion of Japanese American internment with Mr. Korematsu’s cases and provides the student’s answer to the two prompts: What were the results of Mr. Korematsu’s quest for justice? How did his efforts shape his life? Point values for each element of student articles should be provided to the students, at teacher’s discretion, along with these directions as a rubric.

In assessing student efforts, teachers are looking for student knowledge about the facts of Mr. Korematsu’s life, the court cases, and the atrocity of Japanese American internment. The students writing should reflect an understanding of the impact on Mr. Korematsu’s life and how the circumstances of unlawful imprisonment and internment shaped his efforts and his life.

Summative Performance Task and Taking Informed Action

At this point in the inquiry, students have examined the relationships between Japanese American internment during WWII, Mr. Korematsu's legal fight for justice, and the reasons for his quest. Students have had the opportunity to read and observe the life story of a man that was committed to the idea of justice and to ensuring that nothing like what happened to the Japanese American people ever could take place again in the United States. Students now use their thinking about these key elements of Mr. Korematsu's story in order to construct an argument supported by specific evidence in a slide presentation format. The evidence should support the final part of the presentation, which includes an argument as to why Mr. Korematsu's quest for justice remains important today. Overall, the presentation should reflect student understanding of what we should remember about Mr. Korematsu's quest for justice. Teachers should consider providing students with a graphic organizer to help them organize their presentation and to align their evidence with their key points and argument. The graphic organizer should also serve as the basis for a rubric to support assessment.

After completing the Summative Performance Task and receiving feedback on their presentations, students should be given an opportunity to revise and improve on upon their presentations. At the same time, students should be given the opportunity to Take Informed Action by including in their presentations two additional elements:

- Considering all the actions Mr. Korematsu undertook in his life in his pursuit of justice, which ones do you consider most important to remember?
- Based on your understanding of Mr. Korematsu's quest for justice, use your slide presentation to emphasize how Mr. Korematsu can be best remembered as we consider the actions of political leadership in the United States today and in the future.

They can assess these issues by reflecting on how Mr. Korematsu's life was reflected through his efforts and critically evaluate which aspects of his life were most important to them. Students can then act by considering what Mr. Korematsu's legacy means in relation to their expectations for political leaders in the United States today and in the future.

Appendix A

Korematsu vs. United States, 323 U.S. 214, (1944).

Quoted excerpts from the Majority Opinion written by Justice Hugo Black

The petitioner [Korematsu], an American citizen of Japanese descent, was convicted in a federal district court for remaining in San Leandro, California, a 'Military Area', contrary to Civilian Exclusion Order No. 34 of the Commanding General of the Western Command, U.S. Army, which directed that after May 9, 1942, all persons of Japanese ancestry should be excluded from that area. No question was raised as to petitioner's loyalty to the United States.

... we are unable to conclude that it was beyond the war power of Congress and the Executive to exclude those of Japanese ancestry from the West Coast war area at the time they did.

... exclusion of those of Japanese origin was deemed necessary because of the presence of an unascertained number of disloyal members of the group, most of whom we have no doubt were loyal to this country. It was because we could not reject the finding of the military authorities that it was impossible to bring about an immediate segregation of the disloyal from the loyal that we sustained the validity of the curfew order as applying to the whole group. In the instant case, temporary exclusion of the entire group was rested by the military on the same ground.

Korematsu was not excluded from the Military Area because of hostility to him or his race. He was excluded because we are at war with the Japanese Empire, because the properly constituted military authorities feared an invasion of our West Coast and felt constrained to take proper security measures, because they decided that the military urgency of the situation demanded that all citizens of Japanese ancestry be segregated from the West Coast temporarily, and finally, because Congress, reposing its confidence in this time of war in our military leaders—as inevitably it must—determined that they should have the power to do just this. There was evidence of disloyalty on the part of some, the military authorities considered that the need for action was great, and time was short. We cannot—by availing ourselves of the calm perspective of hindsight—now say that at that time these actions were unjustified.

Quoted excerpts from the Dissenting Opinion written by Justice Robert H. Jackson

Korematsu was born on our soil, of parents born in Japan. The Constitution makes him a citizen of the United States by nativity and a citizen of California by residence. No claim is made that he is not loyal to this country. There is no suggestion that apart from the matter involved here he is not law-abiding and well disposed. Korematsu, however, has been convicted of an act not commonly 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.

A citizen's presence in the locality, however, was made a crime only if his parents were of Japanese birth. Had Korematsu been one of four – the others being, say, a German alien enemy, an Italian alien enemy, and a citizen of American-born ancestors, convicted of treason but out on parole—only Korematsu's presence would have violated the order. The difference between their innocence and his crime would result, not from anything he did, said, or thought, different than they, but only in that he was born of different racial stock.

The limitation under which courts always will labor in examining the necessity for a military order are illustrated by this case. How does the Court know that these orders have a reasonable basis in necessity? No evidence whatever on that subject has been taken by this or any other court.

So the Court, having no real evidence before it, has no choice but to accept General DeWitt's own unsworn, self-serving statement, untested by any cross-examination, that what he did was reasonable. And thus it will always be when courts try to look into the reasonableness of a military order.

Further evidence of the Commanding General's [DeWitt's] attitude toward individuals of Japanese ancestry is revealed in his voluntary testimony on April 13, 1943, in San Francisco before the House Naval Affairs Subcommittee to Investigate Congested Areas, Part 3, pp. 739—40 (78th Cong., 1st Sess.):

I don't want any of them (persons of Japanese ancestry) here. They are a dangerous element. There is no way to determine their loyalty. The west coast contains too many vital installations essential to the defense of the country to allow any Japanese on this coast. * * * The danger of the Japanese was, and is now—if they are permitted to come back—espionage and sabotage. It makes no difference whether he is an American citizen, he is still a Japanese. American citizenship does not necessarily determine loyalty. * * * But we must worry about the Japanese all the time until he is wiped off the map. Sabotage and espionage will make problems as long as he is allowed in this area.

I should hold that a civil court cannot be made to enforce an order which violates constitutional limitations even if it is a reasonable exercise of military authority. The courts can exercise only the judicial power, can apply only law, and must abide by the Constitution, or they cease to be civil courts and become instruments of military policy.

Appendix B

Transcript of Executive Order 9066: Resulting in the Relocation of Japanese (1942)

Executive Order No. 9066

The President

Executive Order

Authorizing the Secretary of War to Prescribe Military Areas

Whereas the successful prosecution of the war requires every possible protection against espionage and against sabotage to national-defense material, national-defense premises, and national-defense utilities as defined in Section 4, Act of April 20, 1918, 40 Stat. 533, as amended by the Act of November 30, 1940, 54 Stat. 1220, and the Act of August 21, 1941, 55 Stat. 655 (U.S.C., Title 50, Sec. 104);

Now, therefore, by virtue of the authority vested in me as President of the United States, and Commander in Chief of the Army and Navy, I hereby authorize and direct the Secretary of War, and the Military Commanders whom he may from time to time designate, whenever he or any designated Commander deems such action necessary or desirable, to prescribe military areas in such places and of such extent as he or the appropriate Military Commander may determine, from which any or all persons may be excluded, and with respect to which, the right of any person to enter, remain in, or leave shall be subject to whatever restrictions the Secretary of War or the appropriate Military Commander may impose in his discretion. The Secretary of War is hereby authorized to provide for residents of any such area who are excluded therefrom, such transportation, food, shelter, and other accommodations as may be necessary, in the judgment of the Secretary of War or the said Military Commander, and until other arrangements are made, to accomplish the purpose of this order. The designation of military areas in any region or locality shall supersede designations of prohibited and restricted areas by the Attorney General under the Proclamations of December 7 and 8, 1941, and shall supersede the responsibility and authority of the Attorney General under the said Proclamations in respect of such prohibited and restricted areas.

I hereby further authorize and direct the Secretary of War and the said Military Commanders to take such other steps as he or the appropriate Military Commander may deem advisable to enforce compliance with the restrictions applicable to each Military area hereinabove authorized to be designated, including the use of Federal troops and other Federal Agencies, with authority to accept assistance of state and local agencies.

I hereby further authorize and direct all Executive Departments, independent establishments and other Federal Agencies, to assist the Secretary of War or the said Military Commanders in carrying out this Executive Order, including the furnishing of medical aid, hospitalization, food, clothing, transportation, use of land, shelter, and other supplies, equipment, utilities, facilities, and services.

This order shall not be construed as modifying or limiting in any way the authority heretofore granted under Executive Order No. 8972, dated December 12, 1941, nor shall it be construed as limiting or modifying the duty and responsibility of the Federal Bureau of Investigation, with respect to the investigation of alleged acts of sabotage or the duty and responsibility of the Attorney General and the

Department of Justice under the Proclamations of December 7 and 8, 1941, prescribing regulations for the conduct and control of alien enemies, except as such duty and responsibility is superseded by the designation of military areas hereunder.

Franklin D. Roosevelt

The White House,

February 19, 1942.

Page URL: <http://www.ourdocuments.gov/doc.php?doc=74&page=transcript>

U.S. National Archives & Records Administration

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Appendix C

Korematsu v. United States, 584 F. Supp. 1406 (N.D. Cal. 1984).

Quoted excerpts from the U.S. District Court opinion written by Judge Marilyn Hall Patel:

Fred Korematsu is a native born citizen of the United States. He is of Japanese ancestry. On September 8, 1942 he was convicted in this court of being in a place from which all persons of Japanese ancestry were excluded pursuant to Civilian Exclusion Order No. 34 issued by Commanding General J.L. DeWitt. His conviction was affirmed.

On December 8, 1941 the United States declared war on Japan.

Executive Order No. 9066 was issued on February 19, 1942 authorizing the Secretary of War and certain military commanders "to prescribe military areas from which any persons may be excluded as protection against espionage and sabotage."

On March 2, 1942 General DeWitt issued Public Proclamation No. 1 pursuant to Executive Order 9066. The proclamation stated that "the entire Pacific Coast ... is subject to espionage and acts of sabotage, thereby requiring the adoption of military measures necessary to establish safeguards against such enemy operations."

Thereafter, several other proclamations based upon the same justification were issued placing restrictions and requirements upon certain persons, including all persons of Japanese ancestry.

As a result of these proclamations and Exclusion Order No. 34, providing that all persons of Japanese ancestry be excluded from an area specified as Military Area No. 1, petitioner [Korematsu], who lived in Area No. 1, could not leave the zone in which he resided and could not remain in the zone unless he were in an established "Assembly Center." Petitioner remained in the zone and did not go to the Center. He was charged and convicted of knowingly remaining in a proscribed area....

In his papers petitioner maintains that evidence was suppressed or destroyed in the proceedings that led to his conviction and its affirmance. He also makes substantial allegations of suppression and distortion of evidence which informed Executive Order No. 9066 and the Public Proclamations issued under it.

The Commission on Wartime Relocation and Internment of Civilians was established in 1980 by an act of Congress. It was directed to review the facts and circumstances surrounding Executive Order 9066 and its impact on American citizens and permanent resident aliens; to review directives of the United States military forces requiring the relocation and, in some cases, detention in internment camps of American citizens, including those of Japanese ancestry; and to recommend appropriate remedies.

The findings and conclusions of the Commission were unanimous. In general, the Commission concluded that at the time of the issuance of Executive Order 9066 and implementing military orders, there was substantial credible evidence from a number of federal civilian and military agencies contradicting the report of General DeWitt that military necessity justified exclusion and internment of all persons of Japanese ancestry without regard to individual identification of those who may have been potentially disloyal.

The Commission found that military necessity did not warrant the exclusion and detention of ethnic Japanese. It concluded that "broad historical causes which shaped these decisions [exclusion and detention] were race prejudice, war hysteria and a failure of political leadership." As a result, "a grave injustice was done to American citizens and resident aliens of Japanese ancestry who, without individual review or any probative evidence against them, were excluded, removed and detained by the United States during World War II."

At oral argument the government acknowledged the exceptional circumstances involved and the injustice suffered by petitioner and other Japanese-Americans. Moreover, there is substantial support in the record that the government deliberately omitted relevant information and provided misleading information in papers before the court.

The judicial process is seriously impaired when the government's law enforcement officers violate their ethical obligations to the court.

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 the 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.

In accordance with the foregoing, the petition [by *Korematsu*] ... is granted and the counter-motion of the respondent [the government] is denied.