

Senate Joint Resolution No. 12

RESOLUTION CHAPTER 150

Senate Joint Resolution No. 12—Relative to Mitsuye Endo Tsutsumi.

[Filed with Secretary of State August 28, 2015.]

LEGISLATIVE COUNSEL'S DIGEST

SJR 12, Pan. Mitsuye Endo Tsutsumi: Presidential Medal of Freedom nomination.

This measure would state the Legislature's support of the nomination of Mitsuye Endo Tsutsumi for the Presidential Medal of Freedom.

WHEREAS, Mitsuye Endo was among 120,000 Japanese Americans residing on the west coast of the United States who were forced from their homes in the aftermath of the attack on Pearl Harbor; and

WHEREAS, Pursuant to President Franklin D. Roosevelt's Executive Order No. 9066, Mitsuye Endo and her family were uprooted from their Sacramento home and incarcerated first in the Tule Lake War Relocation Camp in California, and later in the Topaz War Relocation Camp in Utah. Altogether, Endo spent nearly three years surrounded by barbed wire and guard towers in some of the most remote and desolate areas of the United States; and

WHEREAS, Based on Mitsuye Endo's background as a loyal American citizen, a Nisei (second-generation Japanese American) from Sacramento who was Christian, had never been to Japan, and had a brother serving in the United States Army, Endo was selected as the plaintiff for a test case challenging Japanese internment; and

WHEREAS, Endo's case, *Ex parte Mitsuye Endo* (1944) 323 U.S. 283, was a habeas corpus case challenging the authority of Executive Order No. 9066 and the War Relocation Authority to detain a "concededly loyal" American citizen without charges. The case was first filed on July 13, 1942, while Endo was incarcerated at Tule Lake, denied in 1943, and appealed to the United States Supreme Court in 1944; and

WHEREAS, While her case was proceeding, Endo rejected an offer from the government for conditional release, choosing instead to remain incarcerated to allow her case to continue through the court system; and

WHEREAS, On December 18, 1944, the United States Supreme Court ruled 9-0 in favor of Endo, stating that "A citizen who is concededly loyal presents no problem of espionage or sabotage. Loyalty is a matter of the heart and mind not of race, creed, or color. He who is loyal is by definition not a spy or a saboteur. When the power to detain is derived from the power to protect the war effort against espionage and sabotage, detention which has no relationship to that objective is unauthorized"; and

WHEREAS, On December 17, 1944, the Roosevelt administration, which had been alerted in advance of the court's ruling, rescinded Executive Order No. 9066; and

WHEREAS, Beginning on January 2, 1945, only two weeks after the Endo decision, Japanese Americans held in the camps were released and able to return to the west coast of the United States. With the exception of Tule Lake, the incarceration camps began closing shortly thereafter; and

WHEREAS, It has been noted that the United States Supreme Court's decision in Endo created significant tension with the court's decision in Fred Toyosaburo Korematsu v. United States (1944) 323 U.S. 214, which was decided the same day. In short, the court held in Korematsu that the government could criminally punish someone for refusing to be illegally imprisoned; and

WHEREAS, Mitsuye Endo was the only female plaintiff in the four United States Supreme Court cases that challenged the legality of military orders selectively affecting over 120,000 Japanese Americans during World War II; and

WHEREAS, The three remaining plaintiffs included Fred Korematsu, who challenged the exclusion order; Gordon Hirabayashi, who challenged the exclusion and curfew orders; and Minoru Yasui, who challenged the curfew order; and

WHEREAS, Although two of these plaintiffs, Fred Korematsu and Gordon Hirabayashi, were awarded the Presidential Medal of Freedom, Endo, who brought the only victorious legal challenge filed by a Japanese American during World War II, has not; and

WHEREAS, Endo is an authentic American heroine who made a principled, courageous, and historic stand and voluntarily sacrificed her own freedom to secure the rights of all Japanese Americans who were forcibly removed from their homes and confined in camps without the benefit of due process; now, therefore, be it

Resolved by the Senate and the Assembly of the State of California, jointly, That the Legislature supports the nomination of Mitsuye Endo Tsutsumi for the Presidential Medal of Freedom; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, to the Majority Leader of the Senate, to each Senator and Representative from California in the Congress of the United States, and to the author for appropriate distribution.