



DATE DOWNLOADED: Sat Apr 6 21:47:26 2024

SOURCE: Content Downloaded from [HeinOnline](https://heinonline.org)

Citations:

Please note: citations are provided as a general guideline. Users should consult their preferred citation format's style manual for proper citation formatting.

Bluebook 21st ed.

Larry W. Yackle, Foreword to an Interview with Fred Korematsu, 3 B.U. PUB. INT. L.J. 95 (1993).

ALWD 7th ed.

Larry W. Yackle, Foreword to an Interview with Fred Korematsu, 3 B.U. Pub. Int. L.J. 95 (1993).

APA 7th ed.

Yackle, L. W. (1993). Foreword to an interview with fred korematsu. Boston University Public Interest Law Journal, 3(1), 95-98.

Chicago 17th ed.

Larry W. Yackle, "Foreword to an Interview with Fred Korematsu," Boston University Public Interest Law Journal 3, no. 1 (Spring 1993): 95-98

McGill Guide 9th ed.

Larry W. Yackle, "Foreword to an Interview with Fred Korematsu" (1993) 3:1 BU Pub Int LJ 95.

AGLC 4th ed.

Larry W. Yackle, 'Foreword to an Interview with Fred Korematsu' (1993) 3(1) Boston University Public Interest Law Journal 95

MLA 9th ed.

Yackle, Larry W. "Foreword to an Interview with Fred Korematsu." Boston University Public Interest Law Journal, vol. 3, no. 1, Spring 1993, pp. 95-98. HeinOnline.

OSCOLA 4th ed.

Larry W. Yackle, 'Foreword to an Interview with Fred Korematsu' (1993) 3 BU Pub Int LJ 95

Please note: citations are provided as a general guideline. Users should consult their preferred citation format's style manual for proper citation formatting.

Provided by:

Fineman & Pappas Law Libraries

-- Your use of this HeinOnline PDF indicates your acceptance of HeinOnline's Terms and Conditions of the license agreement available at

<https://heinonline.org/HOL/License>

-- The search text of this PDF is generated from uncorrected OCR text.

-- To obtain permission to use this article beyond the scope of your license, please use:

[Copyright Information](#)

FOREWORD TO AN INTERVIEW WITH FRED KOREMATSU

LARRY W. YACKLE*

One afternoon in the spring of 1942, Fred Korematsu was arrested for doing what would have been perfectly innocent and natural for millions of other American citizens, but was for him a criminal offense. He went for a stroll with his fiancée along a public street in San Leandro, California.¹ By order of General John L. DeWitt, Americans of Japanese ancestry had been directed to remain in their homes during daylight hours and to ready themselves for transport to "assembly centers," where they would wait out the war.² Korematsu's family had already reported to such a center near San Francisco, but he had stayed behind hoping he might still marry his Italian American girl friend and move to the Midwest where they could "live as normal people."³ That naive plan was smashed by the national government's shameful policies toward hundreds of thousands of its loyal citizens. Innocent men, women, and children were herded together in camps and held against their will on the baseless premise that they somehow threatened the nation's security.

This country has much to answer for. Yet few episodes in our history can rival the sheer brutality of the treatment Fred Korematsu and other Japanese American citizens received during World War II: years of detention for merely being themselves. There was plenty of blame to go around. In hindsight, it has properly been laid where it belongs—not with General DeWitt alone, but also with military and civilian officials up the chain of command to President Roosevelt himself, with members of Congress, and with the great mass of other Americans who knew what was happening, but either applauded or kept their complaints to themselves. More's the pity that the Supreme Court upheld the internment policy when ACLU lawyers representing Mr. Korematsu challenged its constitutionality. An infamous opinion by the Court's greatest defender of civil liberties, Hugo Black, condemned by its own words the very action the Court purported to justify:

It is said that we are dealing here with the case of imprisonment of a citizen in a concentration camp solely because of his ancestry, without evidence or inquiry concerning his loyalty and good disposition towards the United States. Our task would be simple, our duty clear, were this a

* Professor of Law, Boston University.

¹ Peter Irons, *JUSTICE AT WAR* 93-94 (1983). See also Aviam Soifer, *Lawyers and Loyalty*, 12 *Reviews in American History* 575 (1984) (reviewing Mr. Irons' book).

² Irons, *supra* note 1, at 70.

³ Memo, Special Agent G.E. Goodwin, San Francisco, July 11, 1942, File 146-42-7, Department of Justice, quoted in Irons, *supra* note 1, at 98.

case involving the imprisonment of a loyal citizen in a concentration camp because of racial prejudice. Regardless of the true nature of the assembly and relocation centers—and we deem it unjustifiable to call them concentration camps with all the ugly connotations that term implies—we are dealing specifically with nothing but an exclusion order. To cast this case into outlines of racial prejudice, without reference to the real military dangers which were presented, merely confuses the issue. 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.⁴

We know better now. We *did* have ugly concentration camps, and people like Fred Korematsu *were* detained in those camps without the slightest inquiry into just cause. It scarcely confuses the issue to attribute what happened largely to racial prejudice. Race *was* the issue. The only "Military Area" Mr. Korematsu entered was the State of California—most of which was covered by DeWitt's sweeping decrees. The Supreme Court's failure to recognize as much only exacerbates the constitutional wrong done to the victims of bigotry—and testifies to the fragility of our principles and institutions under stress.

Recent scholarship has revealed that the internship policies of which the *Korematsu* case was a part were worse, and even more racist, than we previously understood. We now know that government lawyers failed fully to express their reservations about DeWitt's claims that Japanese Americans posed a security threat and, in that way, capitalized on the Supreme Court's willingness to rationalize the deprivation of human liberty as a matter of war time necessity.⁵ In light of this and other recently disclosed information, there is no longer any question but that the "broad historical causes which shaped these [internment] decisions were race prejudice, war hysteria, and a failure of political leadership."⁶

We have done a few things to make amends. Fred Korematsu's conviction has been vacated, and Congress has authorized modest compensatory payments to those who were detained as he was.⁷ Yet nothing we do or say today can possibly right the wrongs of the past. It is altogether fitting and proper, then, that the Journal takes this additional opportunity to remember what happened to an ordinary American citizen in San Leandro and to so many

⁴ *Korematsu v. United States*, 323 U.S. 214, 223 (1944).

⁵ *Korematsu v. United States*, 584 F. Supp. 1406, 1416 (N.D. Calif. 1984).

⁶ Report of the Commission on Wartime Relocation and Internment of Civilians (1982), *cited in*, *Korematsu v. U.S.*, 584 F. Supp. 1406, 1416 (N.D. Calif. 1984).

⁷ Pub. L. 100-383, 102 Stat. 903, 50 U.S.C. §1989.

others across the western states. We must probe this dreadful history for the hard lessons it has to teach us—about our country, our law, and ourselves.

