

BY: Senator WALCZYK

MEMORIALIZING Governor Kathy Hochul to proclaim January 30, 2024, as Fred Korematsu Day of Civil Liberties and the Constitution in the State of New York

WHEREAS, It is the custom of this Legislative Body to recognize those milestones and significant events which represent turning points in our unique history and which are indelibly etched in the saga of our great Nation; and

WHEREAS, Attendant to such concern, and in full accord with its long-standing traditions, this Legislative Body is justly proud to memorialize Governor Kathy Hochul to proclaim Tuesday, January 30, 2024, as Fred Korematsu Day of Civil Liberties and the Constitution in the State of New York; and

WHEREAS, In February 1942, President Franklin D. Roosevelt signed Executive Order 9066 which allowed local military commanders to designate "military areas" as "exclusion zones," from which "any or all persons may be excluded"; this power was used to declare that all people of Japanese ancestry were excluded from the entire Pacific coast, including all of California and much of Oregon, Washington and Arizona, except for those in internment camps; and

WHEREAS, Based on Executive Order 9066, on May 19, 1942, more than 117,000 Japanese Americans were compelled to move into "War Relocation Camps," via a series of exclusion orders; the camps were guarded, and barbed-wire-enclosed detention facilities located in desolate areas of the Southwest; and

WHEREAS, As a result of internment, entire communities were destroyed, never to reappear; many Japanese Americans' lives were ruined as they lost their jobs and their property; and

WHEREAS, Fred Korematsu was a Japanese American man born on January 30, 1919, who, at the young age of 23, decided to stay in San Leandro, California, knowingly violating Civilian Exclusion Order No. 34 of the United States Army; he was arrested and convicted and jailed in California, then was sent to Presico Stockade, in Topaz War Relocation Center in Utah; and

WHEREAS, Fred Korematsu argued that Executive Order 9066 was unconstitutional and that it violated the Fifth Amendment to the United States Constitution; although no question was raised as to Korematsu's loyalty to the United States, the Circuit Court of Appeals affirmed the conviction, and the Supreme Court agreed to hear the case; and

WHEREAS, In a 6-3 decision, the Supreme Court upheld the constitutionality of the exclusion orders; the opinion, written by Supreme Court Justice Hugo Black, held that the need to protect against

espionage outweighed Fred Korematsu's individual rights, and the rights of Americans of Japanese descent; and

WHEREAS, Fred Korematsu's conviction for evading internment was overturned on November 10, 1983, after Korematsu challenged the earlier decision in a ruling by Judge Marilyn Hall Patel of the United States District Court for the Northern District of California, based on the finding that the government had knowingly submitted false information to the Supreme Court that had a material effect on the Supreme Court's decision; and

WHEREAS, In 2011, the Department of Justice filed official notice, conceding it was in error, and thus erasing the case's value as precedent for interning United States citizens; however, the Court's opinion remains significant both for being the first instance of the Supreme Court applying the strict scrutiny standard to racial discrimination by the government and for being one of only a handful of cases in which the Court held that the government met that standard; and

WHEREAS, In 2018, Chief Justice Roberts stated in the majority opinion in *Trump v. Hawaii*, 535 U.S., that "Korematsu was gravely wrong the day it was decided, has been overruled in the court of history, and -to be clear- has no place in the law under the Constitution"; and

WHEREAS, In 1998, Fred T. Korematsu was awarded the Presidential Medal of Freedom; and

WHEREAS, Fred Korematsu remained a civil rights leader, pioneer, and key component in fighting injustices throughout the duration of his life until his death on March 30, 2005; he was influential in lobbying for the signing of the Civil Liberties Act of 1988; and

WHEREAS, The students of Northville Central High School, with great purpose and dedication to the awareness of such important landmark events in our Nation's history, so selflessly presented this idea of Resolution topic to this esteemed Body; and

WHEREAS, In the course of history, certain events exemplify the imperative of the human spirit to stand up to oppression; it is incumbent that we remember such events, and honor those courageous individuals who fought for justice; now, therefore, be it

RESOLVED, That this Legislative Body pause in its deliberations to memorialize Governor Kathy Hochul to proclaim January 30, 2024, as Fred Korematsu Day of Civil Liberties and the Constitution in the State of New York; and be it further

RESOLVED, That a copy of this Resolution, suitably engrossed, be transmitted to the Honorable Kathy Hochul, Governor of the State of New York, and to the students of Northville Central High School.