

# **A Tribute to Patsy Takemoto Mink**

## **INTRODUCTION OF FRED KOREMATSU**

Eric K. Yamamoto\*

Good evening, I'm Eric Yamamoto and it's really so nice to see so many friends, colleagues, students, people from our community. This room has never been so full. It's really amazing. It's really nice to be here with all of you.

To Fred, Catherine and Karen, thank you so much. It's wonderful to have you here. They came all the way from the West Coast and because of the rigors of travel and speaking, Fred's decided to make us his primary speech for the whole spring. So we genuinely appreciate you being here.

As we say in Hawaii, Mahalo.

There is a poignant photo of Fred, in 1998 shaking President Bill Clinton's hand, when Fred received the Presidential Medal of Freedom, the Government's highest justice award. Fred received the Medal for his willingness to stand and fight for what is just, for the benefit of all of us. As I thought about introducing Fred tonight, my mind's eye saw him standing up for justice, not just this once, but at least four times.

First, back during World War II, Fred stood up, nearly alone, to try to make our Constitution mean what it says - equality for all under the law. He challenged our government's, then politically popular internment of innocent Japanese Americans, without charges, hearing, evidence, without a chance to prove loyalty. Many lost everything, their homes, their jobs, their businesses. Some lost their families. They lost their freedom. So Fred stood, to say no - in the face of withering attacks, by the government, by the press, by many of the public, and even by some Japanese Americans fearful of backlash. As we know, the Supreme Court then turned a blind eye, validating what has been described, as a civil liberties disaster. Indeed, Supreme

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Court Justice Jackson in his dissent in Fred's own case from World War II described the majority's decision as a precedent that is a loaded weapon, waiting for the hand of any government authority who comes forward with a plausible, yet false claim of urgent need. A stark judicial warning relevant in America today.

So Fred stood again, the second time, this time in the 1980s, as many in the world fought for recognition of historic injustices that continued to damage peoples lives. Indigenous peoples, immigrants, descendents of slaves - many more. Fred's fight then in the *coram nobis* cases, was not just for himself, not just for Japanese American s. It was for all of us. All of us looking towards the future, to assure that government abuses of power, the scapegoating during times of national crisis, would never again be allowed by law.

And this time Fred, and Gordon and Min, won. They established that yes, a democratic government needs to have broad powers to protect the nation's security, but that at the same time, the government can and indeed must be held accountable when it sharply curtails the civil liberties of its people. For, as the *coram nobis* cases showed, there was no military necessity for the internment, the government leaders in charge ordered the internment because Japanese Americans were, in his words, part of an enemy race. And the government recognizing that it had no constitutional leg to stand on destroyed and suppressed key evidence and deliberately lied to the U.S. Supreme Court in 1944. And here's a deeper lesson that Fred, Gordon and Min stood and fought for, for all of us to imprint on our law books and on our collective hearts. In the words of Federal Judge Marilyn Hall Patel in Fred's *coram nobis* case, "as historical precedent, [the Korematsu case] stands as a caution that in times of distress the shield of [national security and] military necessity ... must not be used to protect governmental actions from close scrutiny and accountability. [The Korematsu case now] stands as a caution that in times of international hostility and antagonisms our institutions, legislative, [judicial, and] executive, must be prepared to ... protect all citizens from the petty fears and prejudices that are so easily aroused." A lesson that rings true today and rings loudly in the national security/civil liberties controversies following 9/11. A lesson that Fred continues to impress upon the courts. In January, he submitted an amicus brief to the U.S. Supreme Court, in the post 9/11 Guantanamo Bay detention case.

Third, after his *coram nobis* victory, Fred stood up to speak and touch our hearts, to touch human lives. Japanese American s

suffered from an enduring stigma. Even his own children didn't know that the Korematsu they read about in the civics books in their California high school was the Korematsu who was their father. After a forum, after the coram nobis cases in California, where Fred and I spoke, an elderly nisei, a second generation woman, came up to him and said with tears slowly trickling down her eyes, "I know we didn't do anything wrong. But first the president, then the military, then the Congress, and finally the courts said we were disloyal and the internment was just. It created such self-doubt in me I couldn't talk about my internment for forty years. Now I can. Your courage, with the help of young attorneys, has freed my soul."

Finally, speaking of young attorneys, Fred is standing and will be standing here tonight because he believes in the students committed to social justice. He knows that law and justice are about more than crusty law books, or even rules of civil procedure - what I teach. He knows that law and justice are about real people, about human emotions, about powerful institutions and dynamic principles, that sometimes fail and sometimes work, but only if people are willing to see what's really going and what's at stake. And to participate in the struggle - yes, the struggle, for justice. And Fred knows that it is you out there, the many students that are here, in the back and in the aisles, all over, the current and future generations who will shape and lead the justice struggles here in Hawaii, across the United States, and indeed throughout the world. How will you do it, and how will we do it? Perhaps drawing upon Fred's and Patsy's life spirit. Paraphrasing poet Remco Camper: "First, someone resists, then someone acts, and then someone else, and then another and then another - and then . . ."

In the spirit of Patsy Mink, we thank you, Fred, for resisting, for acting, for showing us the way - for standing for all of us. Fred Korematsu.