

Our resolution honors Harold's years of service.

And it recognizes the men and women who make the Vermont Dairy Festival the success that it is and will continue to be.

I am hopeful that the Senate will soon act on this resolution to appropriately celebrate Harold's career and Vermont's dairy farmers.

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the resolution and preamble be agreed to en bloc, the motions to reconsider be laid upon the table en bloc, and that any statement relating to the resolution be printed in the RECORD, with no intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 118) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

#### S. RES. 118

Whereas the town of Enosburg Falls, Vermont, will host the "Vermont Dairy Festival" from June 2 through June 5, 2005;

Whereas the men and women of the Enosburg Lions Club will sponsor the Vermont Dairy Festival, which celebrates its 49th year;

Whereas the Vermont Dairy Festival is a beloved expression of the civic pride and agricultural heritage of the people of Enosburg Falls and Franklin County, Vermont;

Whereas the people of Enosburg Falls and Franklin County have long-held traditions of family owned and operated dairy farms;

Whereas the St. Albans Cooperative Creamery, Inc., which was established in 1919, is a farmer-owned cooperative;

Whereas Harold Howrigan served on the Board of the St. Albans Cooperative for 24 years;

Whereas Mr. Howrigan was the President of the Board of the St. Albans Cooperative for 17 years;

Whereas Mr. Howrigan recently retired from his position as President of the Board of the St. Albans Cooperative; and

Whereas Mr. Howrigan led the St. Albans Cooperative to uphold the region's traditions and to meet future challenges: Now, therefore, be it

*Resolved*, That the Senate recognizes June 2 through June 5, 2005, as the "Vermont Dairy Festival", in honor of Harold Howrigan for his service to his community and the Vermont dairy industry.

#### HONORING FRED T. KOREMATSU

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 126, submitted earlier today by Senator DURBIN.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 126) honoring Fred T. Korematsu for his loyalty and patriotism to the United States and expressing condolences to his family, friends, and supporters on his death.

There being no objection, the Senate proceeded to consider the resolution.

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the resolution and preamble be agreed to, en bloc, the motion to reconsider be laid upon the table, with no intervening action, and that any statements relating to this resolution be printed in the RECORD.

Mr. DURBIN. Mr. President, reserving the right to object, and I will not object, I would like to say a brief word or two about this resolution honoring the life of a great American who passed away recently. I am proud to be joined by Senators INOUE and STEVENS on this resolution.

Three weeks ago, when I heard that Fred Korematsu died at the age of 86, I came to the Senate floor and paid my tribute. But because his place in our Nation's history is so important, I have come to the floor again to ask the entire Senate to recognize this man with this resolution.

In recent months, I have had several occasions to mention Fred Korematsu's name in committee and floor proceedings, because the story about the injustices he and thousands of others faced as a Japanese American during from World War II is one that we should never forget.

Today, as our Nation is engaged in a global war on terrorism and when we are confronting the issues of the balance between civil liberties and security, Fred Korematsu's name is a reminder that we need to learn from our history, as difficult and shameful as it may be.

In November 2003, Fred Korematsu filed a brief before the Supreme Court in a case involving the detentions at Guantanamo Bay. His brief contained a simple plea to the government: "to avoid repeating the mistakes of the past, this court should make clear that the United States respects constitutional and human rights, even in times of war."

As leaders in Washington, we are responsible for a wide range of legislative and policy decisions that will have impact on millions of lives of our fellow Americans. As we deliberate and debate these issues, I hope all my colleagues will continue to heed the wise words of this humble man.

Fred Korematsu died on March 30 at his daughter's home in Larkspur, CA, after a long illness. He leaves behind his wife, Kathryn, and their son and daughter. Our thoughts and prayers go out to their family and friends, and we honor his memory today with this resolution.

I ask my colleagues to support this resolution honoring a true American hero.

Fred Korematsu is a family name known to every student who has ever gone through law school. It was Mr. Korematsu who filed the law case protesting the internment of Japanese Americans during World War II. His family, like so many others, was discriminated against simply because of their heritage. We now realize it was a

serious mistake and a great disservice to many loyal and patriotic Japanese Americans.

His recent passing was a reminder of this man's courage throughout his life, and I hope that this resolution, when it is sent to his family, will be a fitting tribute from the Senate for all the contributions they and his family have made to America.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. INOUE. Mr. President, I rise to speak in support of the Senate resolution honoring Fred Toyosaburo Korematsu for his loyalty and patriotism to the United States and expressing condolences to Fred's family, friends and supporters on his passing.

On March 30, 2005, our Nation lost a deeply compassionate man and a great American patriot. Fred profoundly influenced the course of American history and legal jurisprudence when he led a courageous legal challenge against the internment of Japanese Americans by the United States Government. Fred was born in Oakland, CA, in 1919. His parents were Japanese immigrants who ran a flower nursery while Fred attended Castlemont High School and later the Master School of Welding. Fred worked on the Oakland docks as a steel welder and was quickly promoted to a foreman position.

The war in Europe, however, changed his life. America began providing supplies to Great Britain in its war against Germany and Germany's allies, including the country of Japan. At home in California, when Fred entered restaurants, waiters refused to serve him because of his ancestry. Fred's union terminated his membership, and Fred lost his job. American by birth, Fred wished to prove his patriotism by joining the United States Coast Guard, but the recruiting officer refused his application. Fred eventually found work with a mobile trailer company, but after the bombing of Pearl Harbor in December 1941, his employer fired him.

Fred was 22 years old when President Roosevelt issued Executive Order 9066, authorizing military commanders on the West Coast to issue whatever orders necessary for national security. Curfews, exclusionary orders, and the internment of 120,000 Japanese Americans soon followed, and the Korematsu family was taken to the Tanforan race-track in San Mateo. Fred, however, held a deep conviction that the constitutional rights of Japanese Americans were being violated by the internment order issued without any real evidence of disloyalty, without specific charges, and without trial, and so Fred chose to defy the order.

Fred assumed a non-Japanese identity and even had plastic surgery in an attempt to change his appearance. Nevertheless, the police stopped him in San Leandro and Fred was charged with violating the military's exclusion order. Fred was sent to Federal prison and later to live with his family in a

horse stall at the Tanforan racetrack. The Korematsus performed hard labor behind barbed wire and under the watch of armed guards. Other Japanese Americans in the internment camp avoided him, fearing for the safety of their own families. The Federal district court found Fred guilty of violating military exclusion orders, and sentenced him to 5 years of probation under military authority. Fred appealed that decision. Meanwhile, after a year and a half of laboring in the internment camp, Fred's skill as a welder enabled him to leave the camp, on the condition that he not return to California. He got a job as a welder in an iron works company in Salt Lake City, and eventually, made his way to Detroit.

Fred's appeal reached the Supreme Court in 1944. The Court upheld the lower court's ruling in a 6-3 vote, citing the simple reason that the internment of American citizens of Japanese ancestry was a military necessity in light of the war with Japan. Fred petitioned for a rehearing, but it was denied in February 1945.

Fred eventually met and married Kathryn and raised a family. Like many Japanese Americans, Fred tried to put his internment experiences behind him, but he was unable to pursue many job opportunities because his violation of the exclusion order left him with a criminal record. He once worked on an application to become a real estate broker, but when he came across the question that asked whether he had prior criminal convictions, he threw the application away. Although Fred worked as a draftsman, he did not apply to work at larger companies or government agencies, as they would not hire someone who had a prior conviction on record. Without a pension, Fred worked part time to make ends meet, even while in his eighties.

In the early 1980s, a volunteer legal team began to accumulate evidence that government officials had possessed significant information that Japanese Americans had not posed an actual threat to national security at the time of the internment, and the team approached Fred to file a *coram nobis* petition to review events that occurred 40 years earlier that denied Fred a fair hearing.

In late 1983, a Federal court in San Francisco overturned Fred's guilty conviction, stating that the Government's case at the time had been based on false and biased information.

The court's decision was a landmark and a critical turning point in history. The volunteer legal team that gravitated to Fred was driven by his courage, his unshakable sense of right and wrong, and his faith in the American Constitution. The court's 1983 holding in *Korematsu v. U.S.*, *coram nobis*, set in motion a chain of important events. Shortly following the success of that case, Congress ordered a commission report on the internment of Japanese Americans. Upon the commission's

finding that internment orders were issued without proper basis, Congress in 1988 passed legislation for a Presidential apology and reparations to Japanese American internees.

Ten years later, in 1998, President Bill Clinton awarded Fred with the Presidential Medal of Freedom, the highest civilian honor in the United States. During that ceremony, the President stated, "In the long history of our country's constant search for justice, some names of ordinary citizens stand for millions of souls—Plessy, Brown, Parks. To that distinguished list today we add the name of Fred Korematsu."

To many, Fred was more than just a distinguished name. Fred shared his riveting and protracted story about justice with thousands of young Americans, and he has deeply touched and inspired a new generation of civil rights attorneys. Fred's zest for life, courage, patriotism, compassion, gentle humor, strong will, and delight in teaching others has endeared him to many. He graced our midst, and by example, encouraged all of us to never abandon our Nation's cherished constitutional principles and values.

Fred Korematsu was a devoted husband and father, a teacher, a trailblazer, a hero, and a great American.

The resolution (S. Res. 126) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

#### S. RES. 126

Whereas on January 30, 1919, Fred Toyosaburo Korematsu was born in Oakland, California, to Japanese immigrants;

Whereas Fred Korematsu graduated from Oakland High School and tried on 2 occasions to enlist in the United States Army but was not accepted due to a physical disability;

Whereas on December 7, 1941, Japan attacked the United States military base at Pearl Harbor, Hawaii, forcing the United States to enter World War II against Japan, Germany, and Italy;

Whereas on February 19, 1942, President Franklin D. Roosevelt signed Executive Order number 9066 (42 Fed. Reg. 1563) as "protection against espionage and against sabotage to national defense", which authorized the designation of "military areas . . . 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 restriction the . . . Military Commander may impose in his discretion";

Whereas the United States Army issued Civilian Exclusion Order Number 34, directing that after May 9, 1942, all persons of Japanese ancestry were to be removed from designated areas of the West Coast because they were considered to be a security threat;

Whereas in response to that Civilian Exclusion Order, Fred Korematsu's family reported to Tanforan, a former racetrack in the San Francisco area that was used as 1 of 15 temporary detention centers, before being sent to an internment camp in Topaz, Utah;

Whereas more than 120,000 Japanese Americans were similarly detained in 10 permanent War Relocation Authority camps located in isolated desert areas of the States of Arizona, Arkansas, California, Colorado,

Idaho, Utah, and Wyoming, without any charges brought or due process accorded;

Whereas Fred Korematsu, then 22 years old and working as a shipyard welder in Oakland, California, refused to join his family in reporting to Tanforan, based on his belief that he was a loyal American and not a security threat;

Whereas on May 30, 1942, Fred Korematsu was arrested and jailed for remaining in a military area, tried in United States district court, found guilty of violating Civilian Exclusion Order Number 34, and sentenced to 5 years of probation;

Whereas Fred Korematsu unsuccessfully challenged that Civilian Exclusion Order as it applied to him, and appealed the decision of the district court to the United States Court of Appeals for the 9th Circuit, where his conviction was sustained;

Whereas Fred Korematsu was subsequently confined with his family in the internment camp in Topaz for 2 years, and during that time, he appealed his conviction to the United States Supreme Court;

Whereas on December 18, 1944, the Supreme Court issued its decision in *Korematsu v. United States*, 323 U.S. 214, which upheld Fred Korematsu's conviction by a vote of 6-to-3, based on the finding of the Supreme Court that Fred Korematsu was not removed from his home "because of hostility to him or his race" but because the United States was at war with Japan and the United States military "feared an invasion of our West Coast";

Whereas Fred Korematsu continued to maintain his innocence for decades following World War II;

Whereas, under section 552 of title 5, United States Code (commonly known as the "Freedom of Information Act"), an historian discovered numerous government documents indicating that, at the time *Korematsu v. United States*, 323 U.S. 214, was decided, the Federal Government suppressed findings that Japanese Americans on the West Coast were not security threats;

Whereas in light of this newly discovered information, Fred Korematsu filed a writ of error *coram nobis* with the United States District Court for the Northern District of California;

Whereas on November 10, 1983, United States District Judge Marilyn Hall Patel overturned Fred Korematsu's conviction, concluding that senior government officials knew there was no factual basis for the claim of "military necessity" when they presented their case before the Supreme Court in 1944;

Whereas in that decision, Judge Patel stated that, while *Korematsu v. United States* "remains on the pages of our legal and political history...[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";

Whereas the Commission on Wartime Relocation and Internment of Civilians, authorized by Congress in 1980 to review the facts and circumstances surrounding the relocation and internment of Japanese Americans under Executive Order Number 9066 (42 Fed. Reg. 1563), concluded that "today the decision in *Korematsu* lies overruled in the court of history";

Whereas the Commission on Wartime Relocation and Internment of Civilians concluded that a "grave personal injustice was done to the 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", and that those acts were "motivated largely by racial prejudice, wartime hysteria, and a failure of political leadership";

Whereas the overturning of Fred Korematsu's conviction and the findings of Commission on Wartime Relocation and Internment of Civilians influenced the decision by Congress to pass the Civil Liberties Act of 1988 (50 U.S.C. App. 1989b et seq.) to request a Presidential apology and symbolic payment of compensation to persons of Japanese ancestry who lost liberty or property because of discriminatory action by the Federal Government;

Whereas on August 10, 1988, President Reagan signed that Act into law, stating, "[H]ere we admit a wrong; here we reaffirm our commitment as a nation to equal justice under the law";

Whereas on January 15, 1998, President Clinton awarded the Medal of Freedom, the highest civilian award of the United States, to Fred Korematsu, stating, "In the long history of our country's constant search for justice, some names of ordinary citizens stand for millions of souls: Plessy, Brown, Parks. To that distinguished list, today we add the name of Fred Korematsu.";

Whereas Fred Korematsu remained a tireless advocate for civil liberties and justice throughout his life, particularly speaking out against racial discrimination and violence targeting Arab, Muslim, South Asian, and Sikh Americans in the wake of the September 11, 2001, tragedy, and cautioning the Federal Government against repeating mistakes of the past by singling out individuals for heightened scrutiny on the basis of race, ethnicity, or religion;

Whereas on March 30, 2005, Fred Korematsu died at the age of 86 in Larkspur, California; and

Whereas Fred Korematsu was a role model for all Americans who love the United States and the promises contained in the Constitution, and his strength and perseverance serve as an inspiration for all people striving for equality and justice; Now, therefore, be it

*Resolved*, That the Senate—

(1) honors Fred T. Korematsu for his loyalty and patriotism to the United States, his work to advocate for the civil rights and civil liberties of all Americans, and his dedication to justice and equality; and

(2) expresses its deepest condolences to his family, friends, and supporters on his death.

#### CONGRATULATING CHARTER SCHOOLS

Mr. McCONNELL. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of S. Res. 127, which was submitted earlier today.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 127) congratulating charter schools and their students, parents, teachers, and administrators across the United States for their ongoing contributions to education, and for other purposes.

There being no objection, the Senate proceeded to consider the resolution.

Mr. GREGG. Mr. President, today I am joined by my colleagues Senators LIEBERMAN, FRIST, LANDRIEU, SUNUNU, ALEXANDER, DEMINT, DOLE, VITTER, BURR, in support of this resolution to designate the week of May 1 through May 7, 2005 as National Charter Schools Week. This year marks the 13th anniversary of the opening of the nation's first charter school in Minnesota. Since that time, charter

schools have experienced tremendous growth as more and more parents discover for themselves why surveys show such high levels of parental satisfaction with charter schools. Today, there are almost 3,300 charter schools serving nearly 900,000 students in 40 States, the District of Columbia, and Puerto Rico, up from 3,000 schools serving 750,000 students just 1 year ago. Nearly 40 percent of these schools report having waiting lists, and there are enough students on these waiting lists to fill another 1,000 average-sized charter schools.

Charter schools serve a unique role in public education. They are designed to be free from many of the burdensome regulations and policies that govern traditional public schools. They are founded and run by principals, teachers and parents who share a common vision of education, a vision which guides each and every decision made at the schools, from hiring personnel to selecting curricula. Furthermore, charter schools are held strictly accountable for student performance—if they fail to educate their students well and meet the goals of their charters, they are closed. Most importantly, charter schools are raising student achievement. Research has shown that charter school students are more likely to be proficient in reading and math than students in neighboring traditional schools, and that the greatest achievement gains can be seen among African American, Hispanic, and low-income students. Research also shows that the longer charter schools have been in operation, the more they outdistance traditional scores in student performance.

Since each charter school represents the unique vision of its founders, these schools vary greatly, but all strive for excellence. There are countless examples of charter schools that are having an enormous impact on their students both academically and personally, and on the surrounding community.

For example, the Vaughn Next Century Learning Center in San Fernando, CA, serves students in grades K-12, 97 percent of whom qualify for free lunch, and 87 percent of whom speak limited English. Fifteen years ago, the Vaughn Street School was a haven for drug deals and violence, and students' test scores were the lowest in the San Fernando Valley. Since it converted to a charter school in 1993, Vaughn rose from the ninth percentile in language arts and the eleventh percentile in math to become a National Blue Ribbon School. Test scores have gone up 330 percent in the past 5 years alone. As a result of the autonomy granted by converting to charter status, Vaughn has been able to redirect considerable resources to programmatic efforts, including an extended school year and comprehensive afterschool program. The school has also expanded its offerings to the greater community, including a school-based clinic, family center, business co-op, and library.

Cincinnati's W.E.B. DuBois Academy, serving children in grades 1 through 8,

recently became the only elementary school in the city and one of only 102 schools in Ohio to be recognized as a "School of Promise." The recognition follows a period of remarkable improvement for the low-income school, which now boasts that 100 percent of its students passed State tests in six areas. The school has met the State's requirements for Adequate Yearly Progress, and is closing the achievement gap—and has generated a lengthy waiting list along the way. The W.E.B. DuBois Academy attributes its success to extended research-based instructional time, performance-based pay for teachers, strict discipline, and a rewards system that reinforces outstanding academic performance. Says founder Wilson H. Willard III, "We've implemented a research-based system that addresses the constraints that compromise traditional education. In doing so, we've generated successful academic results for hundreds of our students. . . . defying convention has built success for the school, and most importantly, each student in it. In the end, that's what really matters."

These are but a few of the promising schools in the charter movement, which includes a wide range of schools serving a variety of different learning needs and styles, often at a lower cost than traditional public schools. I am pleased that four such schools have launched in New Hampshire this year, ranging from the State's first school for deaf and hard of hearing students to academies focused on the arts, technology, and business. Several more schools will soon open their doors in the Granite State, offering additional options for parents and students, including those most at risk.

I expect that we will see charter schools continue to expand both in New Hampshire and nationally. Three years ago, the President signed into law the No Child Left Behind Act, which gives parents in low-performing schools the option to transfer their children to another public school. No Child Left Behind also provides school districts with the option of converting low-performing schools into charter schools. I believe these provisions will strengthen the charter school movement by creating more opportunities for charter school development. And, as parents exercise their right to school choice and "vote with their feet", the demand for charters schools will increase.

I commend the ever-growing number of people involved in the charter school movement, from parents and teachers to community leaders and members of the business community. Together, they have led the charge in education reform and are helping transform our system of public education. Districts with a large number of charter schools have reported that they are becoming more customer service-oriented, increasing interaction with parents, and creating new education programs, many of which are similar to those offered by charter schools. These improvements benefit all our students,