

## Office Memorandum • UNITED STATES GOVERNMENT

TO : MR. COOLEY

FROM : JOHN L. BURLING

SUBJECT: Korematsu v. United States

DATE: April 21, 1944.

What would you think of inserting in the Korematsu Brief the following paragraph on the due process clause?

"The members of this Court must be keenly aware that they are at the present time in danger of mob violence at the hands of Southern legislators. Thus they would be the first to admit that they could be detained by a General seeking to protect them from lynching. Similarly, it will not be denied that persons of the Negro Race could have been concentrated during the Detroit Race Riot last Spring, or that in areas where the Ku Klux Klan threatened violent measures, persons of the Catholic and Jewish faiths could be interned. From this it would seem to follow ineluctably that it was within the due process clause to place persons of Japanese ancestry in protective custody."

I think this is very persuasive, don't you?

Copies to

Mr. Ennis  
Miss Dembits  
Mr. Justice Frankfurter

