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Edward J. Ennis

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Earl Warren Oral History Project

Edward J. Ennis

A JUSTICE DEPARTMENT ATTORNEY COMMENTS
ON THE JAPANESE-AMERICAN RELOCATION

An Interview Conducted by
Miriam Feingold

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VIEW HISTORY

Edward J. Ennis was interviewed by the Earl Warren Project of the Regional Oral History Office in order to record his recollections of two events in which his path crossed Earl Warren's: Japanese-American relocation, and the Ernest Ramsay deportation which arose out of the King, Ramsay, Conner case.

Interviewer: Miriam Feingold.

Subject of the interview:

A single, two-hour-long interview was held on December 20, 1972, in Mr. Ennis' compact law office at 8 West Fortieth Street, New York City, where he now practices estates, litigation, and immigration law, in addition to serving as chairman of the board of directors of the American Civil Liberties Union. A spry man of boundless energy, Mr. Ennis reminisced easily and rapidly about events of thirty years ago. An outline prepared by the interviewer had been submitted to Mr. Ennis in advance, and this served to structure the interview, which was sandwiched into his busy schedule.

Concerned that the entire story of the Japanese-American relocation be told, Mr. Ennis suggested that the interviewer also speak to Col. Karl Bendetsen, assistant to General DeWitt of the Western Defense Command. Col. Bendetsen's office at Champion Paper Company was only a few blocks away. To facilitate matters, Mr. Ennis, at the end of the interview, wrote a note to Col. Bendetsen, which is included as an appendix to this manuscript. Following up the note, the interviewer telephoned Col. Bendetsen's office and was informed that it has been the colonel's policy for many years not to discuss the Japanese-American relocation at all. He referred all interested persons to the written army records.

Comments:

Editing of the transcribed, taped interview was done by the interviewer. Minor rearrangements of materials were made to maintain continuity of the discussion without interrupting its informal quality. Mr. Ennis carefully reviewed the edited text and returned it, he noted, "with its pristine informality unmarred."

Narrative Account
of the Inter-
view:

Mr. Ennis relates that as general counsel for the Immigration and Naturalization Service in 1941, and special assistant to the U.S. attorney general in charge of war problems, he had been working on the problem of how to deal with enemy aliens if and when war broke out, and that it was natural that when Pearl Harbor was bombed on December 7 that Attorney General Biddle appoint him chief of the Justice Department's Alien Enemy Control Unit. In this capacity, he relates, he tried to "cool the situation" while at the same time providing necessary wartime security.

Describing Gen. DeWitt's initial concern that the Japanese would next attack the West Coast, Mr. Ennis notes that in December and January DeWitt still asked only that the Justice Department's program be stepped up. He ascribes DeWitt's "about face" to pressure from "principally the farmer-growers, who had an avaricious eye on Japanese farming land, and from congressmen from California, who felt the pressure from these elements." The decision, Mr. Ennis believes, "was more political than military." Mr. Ennis relates that he testified at hearings in early 1942 against the proposal to evacuate Japanese of American ancestry. The decision itself, he explains, was made by the President, with the concurrence of the War Department, as well as the Western Defense Command and the Pentagon. He believes that it represented "a failure of the highest civilian officers in the military establishment." He also comments on the roles played by Attorney General Biddle, Tom Clark, a special assistant attorney general, and FBI head J. Edgar Hoover.

Mr. Ennis takes issue with Earl Warren's testimony to the Tolan Committee on the danger of Japanese sabotage, noting that the Japanese held land long before it was considered for "airports or anything else." He relates that there was no evidence of any sabotage, and although there was espionage, it was not enough to warrant an evacuation.

After leaving the Justice Department, Mr. Ennis became the attorney for the Japanese-American

Claims Act. He notes that he encouraged Japanese attorneys to handle the actual cases. Another important element in the rehabilitation of the Japanese-Americans was the bravery of the 442nd Battalion, the formation of which, Mr. Ennis notes ironically, he originally opposed.

Switching gears, Mr. Ennis next discusses his representation of Ernest Ramsay, a Canadian, in deportation proceedings arising from Ramsay's conviction in 1937 of second degree murder in one of then-Alameda County District Attorney Earl Warren's most controversial cases.

Mr. Ennis explains that in view of the immigration statute, only a pardon from the governor of California could prevent deportation, but the governor at that time, in 1953, was Earl Warren. Although Ramsay could bring considerable union pressure to bear on the governor, Mr. Ennis relates, the governor made clear his difficulties in pardoning a man he had helped convict. The problem was concluded when Governor Warren signed the pardon as one of his last official acts before leaving for the Supreme Court.

Mr. Ennis untangles the intricacies of immigration law, and describes how he first entered the case. He notes that he had played a role in the Justice Department's attempts to deport Harry Bridges, against his personal wishes. Once the pardon was obtained, Mr. Ennis comments in concluding the interview, Ramsay's naturalization was simply a matter of routine.

Miriam Feingold
Interviewer

May 1973
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University of California at Berkeley

Date of Interview: December 20, 1972

I PERSONAL HISTORY

MF: I would like to start by asking a little bit of background on yourself.

Ennis: Certainly.

MF: Where you were born?

Ennis: I was born in Newark, New Jersey, on December 4, 1907. I have just reached that American retirement age of sixty-five, but I am not planning to retire immediately.

MF: Did you grow up in Newark?

Ennis: I grew up in Newark and I beat the white exodus from Newark by some thirty years. We moved to South Orange, New Jersey, when I was in high school. I lived in South Orange, where my family lives, until I went to Columbia Law School in 1929, and I have lived in Manhattan, New York City, since that time.

Immediately after leaving law school I went with the United States Department of Justice.

II JAPANESE-AMERICAN RELOCATION

The Justice Department's Alien Enemy Control Program

MF: When did you leave law school?

Ennis: In 1932. I went with the United States Department of Justice, where I held various positions until 1946, including assistant U. S. attorney in charge of civil division in New York, attorney in the solicitor general's office in Washington, arguing U. S. Supreme Court cases for the government, general counsel for the Immigration and Naturalization Service.

During the war, beginning on the night of December 7, 1941, I was director of the Alien Enemy Control Unit of the [Justice] Department, charged with detention of alien enemies believed to be potentially dangerous, some five thousand Japanese, five thousand Germans and a scattering of Italians, Hungarians, Rumanians, etc. I was also, concurrently, special assistant to the attorney general in charge of war problems generally, including martial law in Hawaii and various other problems, the evacuation of the Japanese from the West Coast, all that kind of thing.

MF: Now, before December 7, had there already been a list of dangerous alien enemies?

Ennis: Yes. Before December 7, the Department of Justice had a special unit with which I, as general counsel to the Immigration Service, was not involved. Together with the FBI it had prepared lists of persons of German and Japanese nationality, particularly German.

The war had already been on since 1939, and because of their [the aliens'] connections with their home government -- with the Japanese, the Order of the Chrysanthemum, or Germans who had been German army officers or active in the Bund -- they were believed to be persons who should be examined for detention or parole in case the United States became at war with their countries. Beginning on December 7, within twenty-four or forty-eight hours, several thousand persons were apprehended by the Federal Bureau of Investigation.

How did they come to appoint you the head of the Alien Enemy Control Unit?

Well, as general counsel of the Immigration and Naturalization Service I was working with Attorney General Biddle on planning detention quarters for alien enemies, if the deteriorating situation with Germany and Japan resulted in war.

In fact, I was in my office on Sunday, December 7, 1941, when Pearl Harbor was bombed, working on some of these plans. I called the attorney general, who was giving a speech in Pittsburgh, the solicitor general, who was giving a speech in Philadelphia, and got all of the officials to come into the [Justice] Department that night, where I drafted the orders for the attorney general bringing the alien enemies thing into effect. Since I had been working on it, I was placed in charge of it.

Shortly after that, there were two presidential proclamations, weren't there, December 7 and 8?

: Yes. I drafted those, as a matter of fact, that Sunday afternoon, getting the whole thing under way.

The alien enemy control program was a system under which aliens of any nationality with something in their record showing an allegiance to the enemy, would be apprehended and put through a hearing procedure. We appointed hearing officers, civilians, throughout the entire country. Every alien who was arrested got a hearing to determine whether he would be released unconditionally, paroled subject to reporting, or interned for the duration.

s: Attorney General Biddle and myself felt that it was part of our job to cool the situation. We felt that aliens of known allegiance to their own country should be interned, but many of these people, in a country like ours, had lived in the United States all their lives.

This was particularly true of the Japanese, who were prohibited from becoming citizens of the United States solely because of their race. In fact, it may be that racist bar in the naturalization laws which was part of the reason that the Japanese and Japanese-Americans were so roughly treated. They had been prohibited from becoming citizens and being politically assimilated even though I think that most of them were emotionally and socially assimilated to the United States.

In these hearings what sort of evidence could be used?

is: The evidence which was used in these alien enemy hearings were really the reports of the Federal Bureau of Investigation upon the enemy associations of a particular alien enemy.

Now for example, I at that time being a young man, if I had been caught by the war in Berlin, I would have expected to be interned, simply because I would think that the German government had every reason to believe that I would do everything I could to help my own country. Therefore, I should be put out of circulation, as decently as possible.

In other countries where you won't find a large enemy population living, practically everybody gets interned, because they are usually there temporarily. In our country, you have to be more discriminating because most persons of enemy nationality are actually permanent residents of the United States.

But the kind of evidence -- take, for example, German army officers, like a man who later after the war became a friend of mine, Fritz von Opel of the Opel Motor people. We kept him interned all during the war, and his wife, too, as a matter of fact. He was an officer in the First World War -- not an officer, but in the German army in the First World War -- and he had made some remarks indicating that he thought the

Ennis: German army was going to win the war in Europe. I guess his wife volunteered to go into internment with him.

We did arrange that in any case where an alien was interned, his family could join him in so-called family camps. I happened to know Mr. Opel very well after the war, and I think we may have made a mistake, that his sentiments, in spite of the fact that he was a visitor here, were not with the German Nazis. But it is very difficult to determine those things in time of war.

MF: We interviewed James Rowe in Washington and he gave you a lot of credit for making sure that the alien enemies that were picked up were released as soon as possible if they could be, and that the investigations were as fair as possible.

Ennis: Well, by temperament, Rowe, who was the first assistant attorney general, and myself and Biddle felt that we should avoid, to the extent that public opinion, which is exercised in times of war, would permit us, some of the excesses of the First World War, when sauerkraut was called "liberty cabbage" and many people were pushed around.

In fact, I got into something of an argument with the FBI and Mr. Hoover at the beginning of our internment program, because the Bureau, which was never adverse to publicity, was arresting people and giving their names to the press. It resulted that the children of Germans or Japanese aliens who were arrested, when they would go to school on Monday morning, they would be confronted with the fact that their fellow students had the information from the press that their parents had been arrested.

It was our view that since most Japanese and Germans -- Italians were no big problem; the Italians in this country were not very gung-ho about the war that their country was fighting -- it was our view that really a minimum program was required. I went to bat with Hoover on this business of publicizing the names of alien enemies and Biddle held me up on it. We forbid Hoover and the FBI to publish the names of those people who were arrested for internment proceedings, in order to save their families from the embarrassment of the publicity.

This is illustrative of the way that the Department of Justice tried to administer the alien enemy control program as a program which sought what wartime security was necessary without becoming 100 percent patriots at the expense of the alien enemy population, which on the whole was on America's side.

I remember that Rowe mentioned that you were at loggerheads with Hoover. Was that what it was about?

Well, that was one of the items. There were several things.

I went down to Cuba, and dealt with our ambassador and the foreign minister of Cuba to arrange a program for Cuba to intern the Nazis that we would identify whom we thought were fueling the German submarines in Cuban ports. Hoover complained to the attorney general that I made these arrangements with Ambassador Spraydon and the foreign minister of Cuba without consulting the Police Chief of Cuba, who was an official friend of Hoover's. My answer to the attorney general was that Hoover was not conducting our foreign relations or our arrangements outside the country.

Hoover was a very, very efficient bureaucrat who was very jealous of his jurisdiction and he complained if it was encroached on at all. Often there were arguments as to just where his authority ended and the authority of other officials in the Department of Justice began.

I guess that was a problem that stayed with him.

Yes, I think so. Sure.

Grodzins* says that in these early days the Department of the Navy was given joint jurisdiction with Justice over the Japanese in the continental United States. I wondered if you had any problems with this?

No. The office of naval intelligence as well as military intelligence worked with the Department of Justice and supplied us with information that they might have, because they prided themselves on being experts,

*Morton Grodzins, Americans Betrayed, University of Chicago Press, 1949.

particularly on the Japanese.

We utilized their information but the navy had no authority to arrest anybody or to deal with any civilian. All the navy could do would be to designate naval depots on the West Coast, from which they could exclude alien enemies if they pleased. They would have no general jurisdiction in the country.

Would that be like Terminal Island and --

: Terminal Island to the extent that it was a naval base. They could post marines or naval police and check who went into an area that was a naval area, like Pearl Harbor.

One of the big cases that I handled during the Second World War was a worker getting into a fight with a marine at the entrance to the naval base. They wanted to try him by martial law in a military court. That was taken all the way up to the Supreme Court. I represented the government and we lost the case. I think we properly lost the case, claiming military jurisdiction over a civilian conflict.

Lieutenant-General DeWitt and the Move Toward Mass Evacuation

Now in mid-December, according to Grodzins*, DeWitt began to get dissatisfied with what the Department of Justice was doing.

: Well, I went out and talked to Lieutenant General DeWitt, and it was my impression that he was honestly, though mistakenly as it turned out, concerned that the Japanese fleet which had been so successful at Pearl Harbor might break lose a task force and attack the Panama Canal or even attack the West Coast of the United States.

*Americans Betrayed

Ennis: After we won the war and got ahold of the Japanese records, it appeared that this was not contemplated by the Japanese navy. But he honestly, though mistakenly, feared that.

He did not however, at that point in December, contemplate anything as large as removal of civilian population from the West Coast. He wanted the civilian authorities, the Department of Justice, to intern more Japanese aliens than we were interning.

I think that DeWitt's about face, and his reach for a larger power, only came about when he learned from elements in California, principally the farmer-growers, who had an avaricious eye on Japanese farming land, and from the congressmen from California, who felt the pressure from these elements -- DeWitt realized that he could ask for authority to do a great deal more than the Department of Justice was willing to do, and he was right.

He asked for such authority, and the Department of Justice opposed it. The President then determined that if the civilian authorities would not deal with American citizens of Japanese ancestry as something beyond our authority, that he would authorize the military authorities to do it as a war measure. The Congress backed that up by passing a law saying that it was a crime for any person barred from a military area to remain in that area or to attempt to enter it.

I testified for the attorney general against that legislation and before the entire West Coast delegation of congressmen and senators, and said that the Department of Justice would have nothing to do with evacuating American citizens from the West Coast because we thought it was wrong. They said that if we didn't do it, the military authorities would do it. I said, "Well, that is their responsibility." And that is what happened.

MF: Now when was this that you were testifying?

Ennis: Probably in late December or early January.

MF: So they were already contemplating, then, removal of citizens?

Ennis: Oh, yes. What happened is -- what I believe happened is that the determination was more political than military.

When I first saw DeWitt early in December, I don't think it ever occurred to him that he would be allowed to give a military order that would say that all the states of California and Oregon and Washington, were barred to American citizens of Japanese ancestry as well as aliens. He only realized that such military power would be approved when the white farmers in California got to their congressmen and the congressmen made it clear to DeWitt that if he asked for such power that it would be approved. I think it took at least a month after December 7, 1941, for that kind of sentiment to develop.

That is one man's opinion about this whole evacuation, which it is now generally agreed, was not required by security and was a foolish misuse of manpower, because the Japanese instead of growing food were living idle in camps having to be fed by others.

MF: Several of the people we have talked to have said that one of DeWitt's weaknesses was that he tended to listen to the last person who talked to him. I wondered if that was your impression?

Ennis: I only met with the General two or three times. I would not have any opinion on that question.

He had a very able assistant in Colonel Bendetsen, Karl Bendetsen, who handled this whole military control of the civilian population for General DeWitt. You might get his views on the matter. He is now, I believe, president or chairman of the board of the Champion Paper Company here in New York City.

MF: I think it was Rowe who felt that actually Bendetsen was the real power behind that decision.

Ennis: Well, I think Karl Bendetsen was the administrator of the decision, but the decision, which was made by the President of the United States, with the concurrence of Secretary of War Stimson, Undersecretary of War Robert P. Patterson, and Assistant Secretary of War John J. McCloy, involved the highest civilian military authorities, as well as General DeWitt and his military superiors at the Pentagon.

Ennis: Colonel Bendetsen may have recommended it, and when it was approved did run the show of the military evacuation, but I hardly think one could place the responsibility for the decision upon him.

I believe personally that it was a failure of the highest civilian officers in the military establishment. I think that Secretary Stimson, who was a very eminent and experienced lawyer -- and as was Robert Patterson who had been a United States District Judge, and John McCloy who was a very eminent attorney -- I think they decided to give the military anything that they requested, at a time when our forces had been defeated and the road ahead looked rather dark and bleak. If the highest military authorities advocated to the President, who was the commander-in-chief, that such action be taken, it overrode the views of the Attorney General of the United States.

The Justice Department and the Courts

MF: It's the military-necessity argument. Rowe says that the phrase, "military necessity," still gives him nightmares. He still climbs the wall when he hears it.

Ennis: Well, it succeeded in the Supreme Court of the United States. The nature of government is such that although the attorney general and I and Rowe opposed it, it was put into effect.

When it was put into effect by the military authorities, and the Japanese were driven out of California, we did not undertake to give them shelter or provide camps for them because we were pretty busy with our alien-enemy camps. This was taken on by the Department of Interior, which was then run by two admitted liberals, Harold Ickes, and Undersecretary of Interior Abe Fortas, later justice of the Supreme Court. They provided the camps in Idaho and Arizona and Texas and elsewhere in which the hundred thousand Americans of Japanese ancestry were housed during the war.

But to get back to the Justice Department, when the program was challenged in the courts, I represented the War Department, and impressed upon the courts this argument of military necessity, because the Department of Justice as the attorneys in court for other branches of the government, defended the action which, as a matter of policy, we opposed. We defended its

Ennis: constitutionality on the theory that the military in time of war apparently has the constitutional authority to make mistakes. We won the first cases.

I thought martial law was entirely wrong in Hawaii after the first year. I went out and defended General Richardson and Admiral Nimitz, and took those cases up to the U. S. Supreme Court and argued them, and lost them, I am glad to say. I thought they were wrong at the time. I made no secret of my views and despite that the military had enough confidence in me that I would give all the arguments that were on the government's side.

MF: That was a curious position for you to be in, to have to suddenly argue --

Ennis: Yes, I told them I would prefer not to, and they said, "Well, you know about these cases. You tried them in Hawaii; you should argue them." I said, "I will argue them," but it was understood that I believed that we were wrong in these cases. "Yes, you go right ahead."

I did, and as I expected the Supreme Court in an opinion by Justice Black held that martial law in Hawaii was unconstitutional. I think Mr. Justice Frankfurter dissented without opinion, one of the few cases in which he dissented without expressing his views. I don't recall whether anybody else dissented in that case.

MF: Were you also involved in the Korematsu and Endo cases?

Ennis: Yes. My office prepared the briefs for the government in Korematsu, Yasui, and Endo, which, as I say, is a curious commentary on the responsibility of the Department of Justice, in defending policies which it, in fact, opposed.

The Role of Tom Clark

MF: If we could back up a bit to January, 1942, at that point Attorney General Biddle sent Tom Clark to California -- actually I guess Tom Clark was already in California -- and I wondered what you thought then and now of that.

Ennis: I thought then what I told Biddle at the time. In view of the difference in time of three hours between Washington and California -- I was working from about eight in the morning until about midnight and flying back and forth several times to California trying to stop this growing desire to evacuate the Japanese-Americans from the West Coast. Biddle appointed Clark, who was then assistant attorney general in charge of the anti-trust division, on the curious ground that since the anti-trust division had an office in Los Angeles, and I think one in San Francisco, it would be convenient. Biddle told me that he appointed Tom, whom I knew well personally. Tom was a very standard, traditional Texan. You must remember that a lot of Texas soldiers were caught by the Japanese in that mess in the Philippines, remember the retreat from -- what was the name of it?

MF: Corregidor?

Ennis: Corregidor. A lot of Texas troops. The feeling in Texas was very high. Assistant Attorney General Clark shared that feeling, I said to Biddle, I said, "Francis, haven't we got enough trouble in trying to stop this swelling movement on the West Coast without appointing a Texan who is going to go right to DeWitt and say that as far as he is concerned, he thinks it is a great idea to kick all these Japanese-Americans out of California?" And Clark was not helpful in stemming that movement.

MF: He wasn't?

Ennis: He was not.

MF: What did he do that wasn't helpful?

Ennis: Well, he did not support the policy that Biddle and I, that I was trying to execute, of using whatever power the Department of Justice had to oppose the evacuation as both unnecessary and unconstitutional.

I must say I never got the attorney general to quite agree with me, but he was not prepared to tell the President of the United States that it was unconstitutional. I took a more political view. I said, "As attorney general, please say it is unconstitutional as well as unnecessary, because they may listen to your views on constitutionality more than they will on necessity. The President may turn to the military on what is necessary and to you on what is unconstitutional, so please say it is

Ennis: unconstitutional. What is constitutional or not is a matter of opinion, and I would like you to come down on the side that it is unconstitutional."

He was almost a saint-like fair man and he would not do that. He just gave the argument that there was no reason to believe that the Japanese-Americans were disloyal, and that they should not be removed, but he was not prepared to say that the government did not have the military power to do it. He turned out to be right in the sense that the Supreme Court upheld the constitutionality of this military action.

I like to think that if I had been attorney general I would have screamed that it was unconstitutional and try to persuade the President to follow me on that ground as well as on the ground of lack of military necessity.

The Role of President Roosevelt

MF: Speaking of the President, how much influence do you think he had in the decision?

Ennis: Well, it was his decision. What happened was we went to the White House, you know, Stimson and Biddle and Rowe and McCloy, and presented this problem to the President, that the military wanted to move out the Americans of Japanese ancestry. The Department of Justice said it was unnecessary and a wrong thing to do. The military said that in the situation of lack of any defenses on the West Coast with the destruction of the navy, that it should be done. The President, who was still suffering very much from the destruction of his navy -- remember he had been assistant secretary of the navy in World War I -- made the decision, as President and commander-in-chief. He made the decision; it was his responsibility.

The decision, of course, was his. High officials of the Department of Justice and of the army presented their different views to the President. He gave authority to the military to make military zones, and very large ones, all the western states, from which they could exclude anyone that they believed was required

Ennis: in the interest of military security, knowing, of course, that all of the Americans of Japanese ancestry would be ordered excluded.

MF: Grodzins* gives the impression that Roosevelt's attentions were taken up with the war in general and that he pretty much listened to what people told him and that in a sense the decision had already been made; he just okayed it.

Ennis: Well, it was made only in the sense that the unanimous advice of people like Stimson, Patterson, McCloy, and the chiefs of staff, who supported General DeWitt's request for this authority, would be likely to be very effective at the beginning of a war which the President was very concerned about. We were certainly not winning it at that point -- we were losing it -- and this advice would be very effective with him, you see.

He signed the executive order which they had submitted. I think Grodzins* is right in the sense that this was a relatively small matter, probably, in the President's mind, as commander-in-chief, in relation to the whole conduct of the war, and the battles that were coming up in the Pacific beyond Hawaii.

MF: I'd like to back up again a minute. There is a rather important meeting that took place on the night of February 17 that was held, I think, in Biddle's home. You were there and Rowe and Biddle and Clark and Bendetsen, Gullion, and McCloy. Gullion pulled out of his pocket a draft of an executive order that would have allowed evacuation of citizens as well as aliens. There is a description of the meeting that is very dramatic, given in Grodzins.* I think he quotes Rowe, in which Rowe said he was so furious he couldn't speak and that you almost wept.

Ennis: Well, I recall now -- in view of the fact that thirty years have passed -- I recall the account of that in Grodzin's* book better than I do the incident, at the moment. I certainly did not at the time I read it in Grodzins* find anything wrong with it, nor do I now.

I know that we felt it a matter of great moment,

*Americans Betrayed

Ennis: and I certainly will not deny that I was profoundly disturbed at the idea that all Americans of Japanese ancestry were to be evacuated from their homes. Yes, I think that that is a correct account.

The Question of Sabotage and Espionage

MF: Now when was the Tolan Committee appointed, because didn't that actually come about after the executive order?

Ennis: I would not have an independent recollection of that. I remember its activities, but I cannot at this stage, without referring to the records, recall the exact chronological events.

MF: Warren testified before the Tolan Committee. That's when he produced all those maps that purported to show that it was more than just coincidence that the Japanese were surrounding all the railway lines and the dams and the hydraulic equipment.

Ennis: Well, I believe, as I did then, that the title records in California will show that the Japanese occupied these areas long before they were considered by the government for airports or anything else. Attorney General Warren had the cart before the horse when he suggested that the proximity of the Japanese to these areas had any security intent or implication. His argument should have been more limited, that even though they had gotten there innocently, since an airport had been planted in their midst, that created some kind of a security risk.

Theoretically that is true. We know with the benefit of hindsight that it did not [create a security risk], but what you must remember is that at that time the air was full of phony stories that Japanese trucks on our airfields in Hawaii, at the time of the attack on Hawaii, had run amok on the airfields destroying our airplanes. All false.

There was no evidence of any sabotage by the Japanese-American population, or Japanese alien population for that matter, either on the mainland or in Hawaii. There was espionage, there was certainly communication

mis: between Japanese agents in Hawaii and the Japanese forces, but there was no sabotage, nothing which would warrant an evacuation.

It is curious that with a relatively much larger population of Japanese and Japanese-Americans in Hawaii, it was never any serious thought of evacuating Hawaii, for the practical reason that they didn't have the transport. The reasons basically were practical.

It was possible to evacuate the Japanese-Americans from the West Coast, and there was a great political advantage in it. It turned over their lands to their white neighbors. It was not possible to do this in Hawaii because there was no place to evacuate them to, and we didn't have the means to evacuate them. These decisions were basically practical-political decisions, rather than decision of serious military necessity.

F: There was a lot of talk then -- speaking about espionage and sabotage -- of ship-to-shore and shore-to-ship communications. I wondered if you remembered that?

mis: Yes. I don't think that any of that was substantiated. There were stories like, we had stories of signalling to Japanese submarines on the West Coast and all turned out to be nonsense. It was the kind of nonsense that the Department of Justice would not act on. I believe that the military acted on theories such as that the Japanese navy might land a force in Mexico and they might come up through Southern California and DeWitt's soldiers wouldn't be able to tell the difference, because of the physical appearance, between Japanese invaders and local Japanese. Local Japanese might help the invaders. I believe there was nothing to support that kind of military speculation.

The Position of the War Department on Mass Evacuation

F: You talked a little bit before about Stimson, Patterson, and McCloy. What did you feel that their general attitude was toward evacuation?

mis: Well, I didn't know Stimson, but I knew McCloy pretty

Ennis: well and Patterson, who had been judge in the southern district of New York when I was assistant U. S. attorney. They were three men whom I admired very much.

I think that they conceived their role as obtaining for the military, the uniformed military authorities, whatever they thought they needed to fight the war. I think that Stimson and McCloy and Patterson acted as attorneys for their clients, the military, and got them what they asked for. They did a very good job and did not do the job that constitutionally the civilian military authorities are supposed to do, namely to examine what the uniformed military authorities ask for and determine independently whether it should be given to them.

But it is impossible in 1972 to reconstruct for you the spirit that prevailed in January and February of '42. The outstanding fact was that we had lost a great battle in Hawaii. We had no defenses on the West Coast at all, and the military was saying to their superiors in Washington, we don't have the means of defending the West Coast if there is any attack and therefore you must clear the battlefield of any potential aides to the enemy in case there is an attack.

In fact, that great pundit for the then New York Herald Tribune -- I am trying to think of his name, Walter Lippmann -- put in a column in the height of the argument in the press as to whether we should evacuate Americans of Japanese ancestry from the West Coast, he put in one of his columns, who claims the right to remain on a battlefield. This, of course, I think, put the matter entirely wrongly, because there was no right to remove these people from their homes and destroy their lifelong earnings and property they had acquired on the theory that California might become a battlefield, which was the theory that DeWitt sold to his superiors in the War Department and they sold to the President.

But I don't like to beat this dead horse, because after the event everybody pretty much agreed that it was an unnecessary military act and perhaps the greatest violation of civil liberties in the United States. There is nothing more I can say about it.

MF: What kind of role did Alan Gullion play, Provost Marshal General?

s: I don't think General Gullion was very influential in the matter. I remember one of the first things he suggested to me when the war started was that we should have a census of all persons living in the United States. We had had in 1940, you see, the Alien Registration Act, requiring all aliens in the United States to register. Apparently taking that as his model, he said, "Now we ought to have a registration of all."

I just said, "General, really, you know, you people have a war to fight and this idea of diverting man-hours -- we all have a war to fight, civilians and military -- diverting man-hours to take the census, requiring all people in the United States to register," I said, "I just think it is a lot of nonsense." This idea didn't take hold.

I never felt that Gullion was very important even with his superiors. That is my own personal opinion. I think they were impressed by the military commanders such as DeWitt who said, "If I am put in charge of this area to defend it, here's what I want. I want the powers to clear the area of anyone whom I think might be disloyal, and that includes, now that I have heard from the congressmen and they have heard from the farmers out there, the farmer-growers associations, that includes all persons of Japanese ancestry." I think that was the line from DeWitt to McCloy and Patterson and Stimson, rather than through the Provost Marshal General. I don't think he was important.

The Military Assumes Control

One of the things that I think Rowe mentioned, or it might even have been Biddle, was that one of the problems that they felt was that there was a great deal of deference then by the Justice Department people to the military people. Was that your impression?

is: No. I don't think there was any deference at all. I didn't feel any deference, and I don't think Rowe or Biddle did, but what happened was that the President overruled Biddle and accepted the advice of Stimson and company.

: Speaking of Biddle, at that February 17 meeting that

MF: Grodzins* describes, Biddle said evidently very, very little and offered no argument at all against the proposed executive order that Gullion presented. I have probably asked this before in other ways, but I wondered why you think Biddle changed his mind.

Ennis: No. I don't think Biddle changed his mind. Biddle was in touch with the President every day. By that time he may have already ascertained that the President was going to approve such military action, and the fact that he may not have expressed himself at that particular meeting wouldn't be meaningful.

His position was against the evacuation. He had told the President that. If the President indicated to him that he was going to accept the views of his military authorities, and Biddle knew that, he [Biddle] might have felt that it was past the point where he could do anything. There was not much use of Biddle, as the attorney general and member of the cabinet, arguing with Gullion or Bendetsen, because it was perfectly clear what they wanted. They wanted the maximum military power. The only place that it was worth Biddle talking was to the President. He did that, and he was overruled in favor of the military request.

MF: Grodzins* quotes Rowe as saying that the worst mistake the Justice Department made was believing the army would not accept the administrative job. In other words, Grodzins feels that the Justice Department felt free to oppose the necessity of evacuation feeling that no other department would take on the administration of such a thing.

Ennis: Well, I don't recall that that was Jim Rowe's estimate of the situation. If it was, it was obviously wrong.

I don't know whether I can separate hindsight from how I felt at the time, but I must say it looked to me as if the army was itching to do something. They couldn't fight the Japanese in California, so they

*Americans Betrayed

Ennis: found someone else to fight, and that was the Americans of Japanese ancestry.

I don't recall why Jim [Rowe] felt that the army would not be willing to take on this responsibility. At the beginning of the war there was some talk that the Department of Justice might take care of military prisoners of war, as well as civilians. But it was finally concluded that prisoners of war transported from either the eastern or the European theater of operation would be handled by the army. They handled them; they built the camps, detained them, and we did not get into that as it was one time thought that we, the civilian department of the government, might.

The army has never had any difficulty, especially in time of war, when they have almost unlimited command of both personnel and funds, to take on all kinds of jobs. They certainly took on the evacuation of the Japanese with gusto and even guarded the temporary camps in which the Japanese were held in the course of evacuation. But they were not required to guard the War Relocation Authority camps, although they may have supplied some guards.

Post-War Reparations

JF: Were you involved at all in any post-war reparation efforts?

Ennis: Well, after I left the Department of Justice, I became attorney for the Japanese-American Citizens League for a couple of years. I helped them draft the legislation that became the Japanese Americans Claims Act. I toured the country for them explaining the act, and explaining to people how to make their claim to recover their farms. But I tried to arrange that mostly Japanese-American lawyers, who had lost all their practice during the war, be their attorneys. I did not participate in those cases to any extent. Mostly Japanese-American attorneys represented them and helped them recover their money.

I don't at the moment recall whether the American Civil Liberties Union, of which I have been a

Ennis: director since 1946 and general counsel from 1950 up until two years ago when I became chairman of the board of directors, was interested in the Evacuation Claims Act or not. They may have been, but the recovery of monetary damages would not be of as great an interest to them, the American Civil Liberties Union, as the vindication of their civil liberties and the rights to liberty.

The 442nd Battalion

Ennis: The only thing I would like to add is that in the Department of Justice, when the army suggested that the young Americans of Japanese ancestry form a special battalion right out of the camps, become a special combat unit, I personally rather opposed it on the theory that if people's loyalty were questioned, they certainly had no obligation to join a special combat unit and increase their chance of getting killed for the country.

Assistant Secretary of War McCloy encouraged them to do that. They did it, and it became, at great cost in blood and life, perhaps the greatest single thing that contributed to the rehabilitation of the Japanese-Americans and to their acceptance back on the West Coast after the war. I think that I was wrong about that, about being cool about that thing, and probably Mr. McCloy was right in encouraging them to do this and to go into this special 442nd batallion which had a great record for bravery in the European theater, and great losses.

They bought with their blood and lives an acceptance. They proved their loyalty, in other words, in the hardest way possible. Even though it was a great cost for the group as a whole, it was probably a wise thing to do, though I believe they were not obliged to give any special indication of their loyalty to the country.

The Cohen, Cox, Rauh Memorandum

MF: Do you remember in mid-February [1942] or so, there was an opinion submitted to the Justice Department by three private attorneys, Benjamin Cohen, Oscar Cox and Joseph Rauh, in which they discussed the constitutional ways of dealing with the Japanese? It is mentioned in

MF: Grodzins,* but it doesn't appear in any of the other books on the subject, as far as I know. I wondered why these private attorneys submitted this memorandum. Had it been solicited?

Ennis: I do remember it and I have generally such affection for the attorneys involved, that I had not given the matter any publicity, but since you asked me I will answer you.

Mr. Biddle had my view that the evacuation should be opposed as unconstitutional. I had frankly told him that even if he had any doubts about unconstitutionality, since, in a sense, that was a political question, he should come down very hard on the side of unconstitutionality.

Since he knew my views were in part political, he requested the views of these eminent constitutional lawyers. He got from them, to my great disappointment, a what I would call theoretical, neutral view that a government could do almost anything in wartime that it believed necessary for its preservation. I was very disappointed in this opinion, and it may very well have influenced Mr. Biddle in not opposing the evacuation more rigorously than he did.

MF: Do you think that they submitted that opinion because as good lawyers they were just answering a request, or was that their feeling, do you think?

Ennis: Oh, I am sure that was their judgment as lawyers, but they were lawyers not involved in the administration of the program. I, as a lawyer involved in the problem, was certainly expressing a view on the constitutional problem which supported my view on the merits of the thing. They were not, in a sense, involved in that and they submitted, as I say, a view of lawyers uninvolved in the problem, who gave the view that in time of war a government may do pretty much as it pleases.

I consider that a kind of a literary constitutional view, which should not be advanced wholly apart from the social question involved. But naturally, as a person involved ever since then in the [American] Civil

*Americans Betrayed

Ennis: Liberties Union, I am not by temperament inclined to give views on the constitutionality apart from what the proposed government action does to people.

I was very disappointed in this memorandum by Mr. Cohen and Mr. Rauh -- and who was the third one? Cox. They are all very fine lawyers whom I knew well. Joe Rauh I just saw a week ago in connection with the election in the mine workers union where he was largely responsible for the legal actions which resulted in the Department of Labor supervising this independent election which brought in a new, and we believe a much better, administration of the mine workers. He is a great lawyer, Mr. Rauh as is Mr. Cohen and Mr. Cox. I am not sure if Mr. Cox is still alive, but they were great lawyers who rendered a very unhelpful opinion to my boss, the attorney general.

J. Edgar Hoover's Position on Mass Evacuation

MF: What was J. Edgar Hoover's attitude toward evacuation?

Ennis: Hoover, I am happy to say, since I am not often asked to speak of actions of the FBI which I approve, Hoover was entirely neutral in the matter. He did not intrude, he did not urge the evacuation. I understand that later it has been suggested that he opposed the evacuation. I doubt that, I don't recall it being so. It was not Mr. Hoover's style really to interfere and to speak against a security measure to be taken by another agency. My recollection is that he was neutral in the matter and certainly did not make my life more difficult in this respect in urging Biddle to oppose it. He considered it outside his bailiwick.

MF: Rowe mentions that he also was upset because the Japanese evacuation would have messed up intelligence. I did not quite understand what he meant by that.

Ennis: I can't recall what Mr. Rowe would have meant.

MF: He said, "Hoover opposed the evacuation because it broke up an intelligence pattern.*"

*See interview with James Rowe conducted by the Regional Oral History Office.

Ennis: I do not understand that. I don't recall that he opposed it. I do recall that he did not urge it and I am happy to put that on the record.

MF: I know it is very hard to find anything nice to say about Hoover! Did he have any recommendations, or suggestions or thoughts about what should be done with the Japanese?

Ennis: No. He gave us a great deal of information every day on security matters he got from the West Coast.

As far as the Department of Justice's own program of interning alien enemies, he was pretty strong for a larger program than we wanted. When we paroled people instead of keeping them in detention, or released them entirely, Hoover and his bureau protected themselves by memoranda indicating that they should be kept in detention, so that if we did let loose a saboteur it would fall on us and not on him.

This was a responsibility we were glad to take, because it was our responsibility. There was no sabotage by anybody we did release, or anybody else for that matter.

MF: Where were the enemy aliens interned?

Ennis: We had camps in various places. We had a large camp for Japanese in Texas; we had a large camp for Italians in Minnesota; and we had a family camp in Texas where wives and even children could join an interned father. We had a half a dozen camps throughout the country. I don't remember them all, but I do recall insisting that the attorney general accompany me and visit some of these camps so that he would see what we were doing to people, so that when we were doing the paper work in Washington we knew that in order to intern someone it meant living in acceptable, but you know, minimal circumstances.