

February 26, 1944

MEMORANDUM FOR THE ATTORNEY GENERAL

Re: General DeWitt's Final Report on
Japanese Evacuation.

I believe it to be a matter of primary practical and historical importance that we correct on the public record the misstatements in General DeWitt's justification for the Japanese evacuation contained in his Final Report (a book of 600 pages) which has been published by the War Department and made available to the public thru the Superintendent of Documents. At present this stands as practically the only record of causes for the evacuation and unless corrected will continue to do so. Its practical importance is indicated by the fact that already it is being cited in the briefs in the Korematsu case in the Supreme Court on the constitutionality of evacuation. Mr. Hoover has sent you a personal and confidential memorandum pointing out the false and erroneous statements about shore-to-ship signaling in the period before evacuation, and other matters. I have ascertained from the Federal Communications Commission that it is also disturbed by the false statements about illegal radio transmitters and it will state its views very definitely in answer to the annexed letter which I request you to send to Chairman Fly. The substance of this letter and the proposed reply have already been discussed by Mr. Burling with General Counsel Denny of the FCC.

We learned of the existence of General DeWitt's report last Spring when we were trying to get some information for the Kiribayashi brief in the Supreme Court and we were refused a copy of the printed report at that time on the ground that it was confidential between General DeWitt and the War Department but we were given a few pages torn out of a copy merely because they wanted us to have selected facts to support the evacuation. These pages did not include the discussion in the report as published about the participation of this Department in the problem before evacuation but we learned that such an ex parte, self-serving report of the relations of the two Departments in this crucial period before evacuation was contemplated and our protests against any such publication unless it was submitted to us in advance, resulted in the delay of the publication and some revision of the report. When we accidentally found that Dillon Myer had one of ten copies of the revised report which had been shown to no one in this Department, which was the only Department directly concerned with the War Department in the pre-evacuation period, we borrowed this copy and immediately requested the War Department to withhold release until we had an opportunity to express our views. Captain John M. Hall, Mr. McCloy's Assistant Executive, told Mr. Burling that it was too late because the report had been released,

which proved to be a misstatement to the extent that although copies had been printed it had not been distributed, which we did not learn until distribution a couple of weeks later.

It is perfectly clear from the course of events that the War Department deliberately evaded submitting this report, discussing our mutual activities, to us before publication. On the basis of Mr. Fly's reply and Mr. Hoover's memorandum, I shall prepare a letter from you to Mr. Stimson explaining the inaccuracies and protesting the action taken, and I believe every effort should be made to publish a final record so that General Hitt and the War Department will not be allowed to make unchallenged this report which in substance and effect implies that the evacuation was required because of the failure of the Attorney General and this Department to take necessary measures.

Edward J. Ennis