

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: 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

Ennis: 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.

MF: 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?

Ennis: 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

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

Ennis: 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?

Ennis: 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

MF: 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?

Ennis: 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.

MF: 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 battalion 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.