



Office of the Solicitor General

Washington, D. C.

October 9, 1943

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ASW 370.8 Hawaii

Honorable John J. McCloy
Assistant Secretary of War
Washington, D. C.

Dear Jack:

Thank you very much for your letters of September 30 and October 6 transmitting the material therein referred to regarding the Hawaiian situation. I shall await with interest any further information. Nothing has come to us directly from Ennis. I am still hopeful substantial progress will be made as a result of the conferences.

I would like to give some emphasis again to the hope that the matter of the prestige of General Richardson is not permitted to play too large a part. I say this because I really do not feel that his prestige is in any way involved. The grave responsibilities which he has in the Islands in connection with their security from a military standpoint surely can be fulfilled with appropriate deference to the civil authority represented by the judiciary. Rather than cause any loss of prestige he would gain in stature by seeking earnestly to work this problem out without too strict a regard for what some may consider prestige. Certainly the courts and the Department of Justice (as recently illustrated by the Supreme Court's decision and our position in the Hirabayashi case) will give broad interpretation to the war powers in necessary controls over the citizen. I do not believe the military have reason to fear in this regard but rather should be led by such men as Secretary Stimson, Judge Patterson and yourself to believe that it is wise and not dangerous to permit such cases as this to take a normal course of solution by judicial processes rather than by the exercise of military power. If General Order 31 was not necessary before, it seems wholly unnecessary now, certainly if some reasonable method of getting the case back in justiciable posture is suggested. Personally, I can not understand an attitude of unwillingness ever to revoke an order because of some fear of loss of face or prestige if, as a matter of fact, the order should be revoked.

Yours sincerely,

Charles Fahy
Solicitor General.



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