

Foreword

No lawyer can claim that he undertook the defense of Admiral Kimmel. Counsel merely furnished the legal auxiliaries in the Admiral's unremitting quest that history record the truth about Pearl Harbor. When one compares the copious data now available with respect to that historic occurrence, with the sparse and garbled information in the public domain in the years immediately following the attack, one must conclude that Admiral Kimmel's determined effort to preserve for posterity as much of the evidence as could be unearthed has been productive.

There is a story within the Pearl Harbor story. That is the account of the Admiral's struggle to discover and to preserve the facts. It must be remembered that Admiral Kimmel was never formally charged with dereliction of duty or errors of judgment by any instrumentality or agency of his government under circumstances which afforded him the opportunity of defending his name. The technique adopted was to relegate him to the category of forgotten men with the criticisms of the Robert's Commission hanging over him like a vague indictment whose allegations were never to meet the test of trial.

In the days immediately following the attack the public was led to believe that court martial proceedings were ultimately to be commenced. However, the wartime emergency and public absorption with the crucial tides of battle were advanced as continuing pretexts for not instituting them. Thus matters stood as of December 7, 1943, two years after the attack.

Admiral Kimmel therefore sought the advice of counsel in order to prevent the

possibility, then verging on a probability, that he would be permanently deprived of an opportunity to record those facts about Pearl Harbor which were within his knowledge and to have recorded for history all other facts which diligent inquiry might reveal. He was anxious to do everything within his power to insure that the Statute of Limitations applicable to such cases was extended so that its barrier could not be invoked as a pretext for permanent official inaction in his case. His personal waiver of this defense, cheerfully given, might not cure a jurisdictional defect. Legislation was probably a necessity.

In extending the Statute of Limitations in 1944 Congress added in substance a directive to the Secretaries of War and Navy to investigate the Pearl Harbor disaster. This was embodied in the legislation with Admiral Kimmel's enthusiastic approval. Indeed the thought originated with him.

The Naval Court of Inquiry which convened in the summer of 1944 as a result of this Congressional directive was the only tribunal of all those investigating Pearl Harbor at whose proceedings the Admiral was permitted the traditional right to have counsel, to introduce testimony, to examine and cross examine witnesses.

The proper scope of an introductory note such as this permits only a sketch of the dramatic developments in the proceedings of the Naval Court. It was there that the Admiral and his counsel first secured authorization for access to the Japanese intercepted messages withheld from the Fleet. One can still recall

the shock, amounting almost to physical revulsion, at one's first appreciation of the magnitude of useful intelligence withheld from Admiral Kimmel and General Short. One can still vividly remember the long frustrating days of the hearings when a directive from higher authority prevented the Admirals who were members of the Naval Court from having introduced in evidence before them these vital documents, and the expressions of horrified amazement which came over their countenances when they were finally permitted to read the intercepted messages. It was also during the days of this hearing that Admiral Kimmel received word of the death of his eldest son, a naval officer, in action in the far reaches of the Pacific. Those of us who were with him when this news came wondered whether so tragic a blow would crush his spirit. He carried on.

The findings of the Naval Court constituted a complete vindication of the Admiral and its records preserved for history evidence of lasting importance as to the responsibility for the Pearl Harbor tragedy. Certain of the developments subsequent to the Naval Court hearing were revolting to fair play, substantial justice and human decency. *Ex parte secret* inquiries were instituted by both services. From the subsequent naval proceedings Admiral Kimmel and his counsel were excluded despite repeated requests that they be allowed to participate. The

Admiral was denied access to the findings of the Naval Court clearing his name. When a part of those findings were finally released for publication along with those of the Army Board, there were so many additional endorsements by "higher authority" that it was with difficulty one could ascertain what facts had been found and by whom. This unsatisfactory condition in turn led to the Congressional investigation of Pearl Harbor where more significant documents and testimony were left as a fruitful legacy for the research of the future historian.

Had Admiral Kimmel accepted passively the assignment of the Pearl Harbor disaster to an obscure footnote in American history, and permitted the early "official" version to go unchallenged, the facts which he now records would probably never have been available to the American people. His unswerving fortitude and determination produced dramatic and startling revelations. It was the privilege of a lifetime to serve an honest and courageous man striving against what seemed overwhelming odds to emerge from the shadows of undeserved humiliation into the light of historic truth.

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