

For the Good of the Service:  
Husband E. Kimmel and the Aftermath of Pearl Harbor

A Thesis  
Presented to  
the Faculty of the Graduate School  
of Millersville University of Pennsylvania  
In Partial Fulfillment  
of the Requirements for the Degree  
of Master of Art

By John G. Keegan

17 February 2010

This Thesis for the Master of Arts Degree by

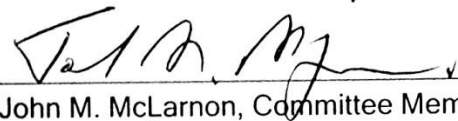
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2/17/10  
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## ABSTRACT OF THE THESIS

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By

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Millersville University, 2010

Millersville, Pennsylvania

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This analysis places Admiral Husband E. Kimmel's actions before December 7, 1941 and his actions in the aftermath of Pearl Harbor into historical context. Without the distortion of hindsight, his decisions based on available information and resources were reasonable. Kimmel's only error in judgment was underestimating Japan's capability to conduct carrier operations. That error was shared by others in the military, President Roosevelt, and Congress. Although Kimmel's treatment in the immediate aftermath of Pearl Harbor was unfair, it was perfectly legal and Kimmel was not unjustly punished by being relieved of command. Additionally, the Hart Inquiry, Naval Court of Inquiry, Hewitt Inquiry and the Joint Congressional Committee Investigation to varying degrees corrected the injustice of the Roberts Commission charge of dereliction of duty. Ultimately, therefore, Kimmel was not denied due process.

Nevertheless, the conclusions of all of the investigations lack the force of a court-martial verdict. By voluntarily waiving the statute of limitations, Kimmel gave away any leverage he had to force the government to try him under the statute. Thus he participated in denying himself such a verdict. It was not until August 1945 that the Judge Advocate General of the Navy Thomas Gatch concluded there was insufficient evidence to sustain a conviction on the charges of Neglect of Duty and Culpable Inefficiency in Performance of Duty. That same month,

Secretary of the Navy James Forrestal offered Kimmel trial by general court-martial. Kimmel never accepted. Thus, Kimmel chose not to be court-martialed.

Examination of prevailing opinion and United States strategy reveals that the United States considered Germany a greater threat. Thus with the nation's attention was focused on Europe the Pacific Fleet was denied the necessary men and materiel to carry out its mission. Recognizing that the Germany first strategy caused the shortages with which Kimmel had to contend in no way brings into question the wisdom of that strategy. It simply recognizes the cost of that choice. Prevailing opinion illustrates the American people's reluctance fully to involve themselves in the war. It also revealed an overestimation of American military capability and a misunderstanding of the appropriate use of air power. Those factors were reflected in Congress's failure to appropriate sufficient funds or provide, in a timely manner, the manpower necessary for the military to be sufficiently prepared at the beginning of the conflict.

Setting aside the historiography that maintains the Japanese were willing and able to attack the Pacific Fleet at Pearl Harbor and analyzing prevailing opinion about Japan's abilities as well as United States strategy demonstrates Kimmel's errors in judgment were not unique. They were shared by the civilian and military leadership. Additionally, Kimmel's decisions before December 7, 1941 were reasonable and he did the best he could with the resources available to him. Kimmel was not derelict in the performance of his duty.

Signature of Investigator  Date 02/17/10

## Introduction

The attack on Pearl Harbor was one of the great tragedies in American History. The number of casualties, 2,403 dead and 1,178 wounded, shocked the nation.<sup>1</sup> Losses on such a scale demanded investigation to determine who was at fault for the disaster. The first of nine official investigations commenced on December 9, 1941. The ninth investigation was conducted by a joint congressional committee from November 1945 until May 1946. Senator Strom Thurmond requested an additional Department of Defense review after a meeting with the Kimmel family in April 1995.<sup>2</sup> Additionally, the attack and its aftermath have been analyzed by many historians. At the center of the historiographical debate was whether the Navy and the United States government treated the officer in command of the Pacific Fleet on December 7, 1941, Admiral Husband E. Kimmel, unjustly.

Kimmel was relieved of command on December 16, 1941, two days before the second investigation, known as the Roberts Commission, convened.<sup>3</sup> The Roberts Commission found Kimmel derelict in his duty and, as a result, Kimmel requested retirement. Based on the Roberts Commission finding, the government determined that Kimmel would be tried by general court-martial after the war. To ensure the trial would take place, Kimmel voluntarily waived the two-year statute of limitations. Thus, from January 1942 to February 1944, Kimmel prepared for his court-martial to clear his name, while the Navy Department prepared for Kimmel's trial. To insure testimony of naval officers who were at Pearl Harbor during the attack and still on active

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<sup>1</sup> Edwin Dorn, *Advancement of Rear Admiral Husband E. Kimmel and Lieutenant General Walter C. Short on the Retirement List*. (Washington, DC: Department of Defense, 1995), footnote 28, Part 3:6 (Hereinafter Dorn Report)

<sup>2</sup> Fred Borch and Daniel Martinez, *Kimmel, Short, and Pearl Harbor: The Final Report Revealed*. (Annapolis: Naval Institute Press, 2005), 8 (hereinafter Martinez); *Remarks at the Meeting of the Office of the Secretary of Defense and Members of The Kimmel Family dealing with the Posthumous Restoration of the Rank of Admiral for Rear Admiral Husband E. Kimmel, United States Navy*, April 27, 1995, Washington, D.C., <http://users.erols.com/nbeach/kimmel.html> (accessed February 20, 2009). (Hereinafter Thurmond Transcript). Members of the Kimmel family present at that meeting were Edward R. Kimmel (son), Manning M. Kimmel, IV (grandson), Captain Thomas K. Kimmel, USN (Retired) (son), and Thomas K. Kimmel, Jr. (grandson).

<sup>3</sup> On December 8, 1941, Secretary of the Navy Frank Knox was sent to Pearl Harbor by President Franklin Roosevelt to report on the aftermath of the attack. His investigation was the first of nine conducted from 1941-1946.

duty would not be lost, the Secretary of the Navy Frank Knox, ordered retired Rear Admiral Thomas C. Hart to examine such witnesses and record a transcript of their testimony. Kimmel was offered counsel and an opportunity to introduce evidence and cross-examine witnesses. However, Kimmel chose not to participate in the Hart Inquiry. Kimmel was involved in the Naval Court of Inquiry, which was the second investigation to provide him counsel and the opportunity to introduce evidence and cross-examine witnesses. It found that Kimmel committed no offense worthy of court-martial. By August 1945, the Judge Advocate General of the Navy, Thomas Gatch, concluded that there was insufficient evidence to sustain a conviction. Furthermore, he argued that since Kimmel had voluntarily waived the statute of limitations the Navy should try Kimmel if he insisted on being court-martialed. The new Secretary of the Navy James Forrestal offered Kimmel trial by court-martial but, because Kimmel was preparing for the Joint Congressional Committee Investigation, he deferred his reply to the offer and was never court-martialed.<sup>4</sup>

To seek an answer to whether Kimmel was treated unjustly, historians have mined the testimony, exhibits, and conclusions of the nine official investigations into the attack, as well as other sources. Based on that analysis, there are those who assert that Kimmel could have done more with the resources available to him. Therefore, relief and retirement at the rank of Rear Admiral was fair. Furthermore, posthumous advancement on the retirement list was unwarranted. There are others who maintain Kimmel was made a scapegoat and unjustly punished. To correct the injustice of the Roberts Commission charge of dereliction of duty, they argued that Kimmel should be advanced on the retirement list to the rank of Admiral under the Officer Personnel Act of 1947.<sup>5</sup>

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<sup>4</sup> James Forrestal became Secretary of Navy in May 1944. He succeeded Frank Knox who died of a heart attack in April 1944.

<sup>5</sup> The purpose of Senator Strom Thurmond's meeting with the Kimmel family and their supporters (see footnote 2) was to request that the Defense Department review the treatment of Kimmel in the aftermath of Pearl Harbor. Furthermore, to correct the injustice done to Kimmel by the Roberts commission, the Admiral's family requested that Kimmel be posthumously advanced on the retirement list to the rank of Admiral. Under the Officer Personnel Act of 1947, Kimmel is still eligible to be listed at the

Each argument overlooks some important factors. The first, that Kimmel could have done more with the resources available, relies on hindsight. Some historians have evaluated the information that was available to Kimmel as clearly indicating a possible attack on Pearl Harbor. They have concluded that the Pacific Fleet should not have been caught off guard. That conclusion is based on information taken out of historical context obstructing a clear understanding of events. The second, that Kimmel was made a scapegoat and unjustly punished, centers on the assertion that Kimmel was denied due process of law by all the investigations except the Naval Court of Inquiry. That assertion overlooks the applicable law of the time and Kimmel's own actions regarding possible court-martial.

The following analysis places both Kimmel's decisions before December 7, 1941 and his actions in the aftermath of Pearl Harbor into context. In order to do so, it is necessary to set aside nearly seventy years of historiography, which maintained that the Japanese were willing and able to attack the United States Pacific Fleet at Pearl Harbor. Equally essential is an understanding of United States strategy, the prevailing opinion about Japan's ability to mount carrier operations, the likelihood of any enemy risking a carrier-born aerial attack on an American Fleet at anchor, and the popular opinion about where the Japanese would strike the first blow. Placed in context, Kimmel's decisions before December 7, 1941 were reasonable. Furthermore, an examination of applicable law illustrates that, however unjust Kimmel's treatment in the immediate aftermath of Pearl Harbor, it was perfectly legal, and the Navy and the government took steps to correct the injustice of the Roberts Commission's finding that Kimmel was derelict in his duty. Kimmel's errors in judgment were not unique. They were shared by others in the military, in Congress, and by the President of the United States.

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highest rank he held during active service. In 2000, Congress passed an amendment to a defense bill that would list Kimmel at the rank of Admiral. The resolution now awaits Presidential action, for only the President can advance him. Kevin Baker, "Another Day of Infamy," [http://www.kevinbaker.info/c\\_adoi.html](http://www.kevinbaker.info/c_adoi.html) (accessed June 27, 2008); *American Heritage* 52.3 (2001)

## 53 minutes

Eight of the nine official investigations of the attack on Pearl Harbor focused on what happened before the Japanese attack, while the report of the Secretary of the Navy Frank Knox focused mostly on the devastation the Japanese left in their wake. Testimony before the Roberts Commission (December 18, 1941–January 23, 1942), the Army Pearl Harbor Board (July 20–October 20, 1944), and the Naval Court of Inquiry (July 24–October 19, 1944) made clear that a critical decision in the minutes before the attack was placed in the hands of a junior officer with little experience, Lieutenant Kermit Tyler. Thus, the actions of that junior officer were significant in the fifty-three minutes before the Japanese attack, for they illustrate the lack of experienced personnel available to Kimmel and the prevailing belief in the unlikelihood of a Japanese attack on Pearl Harbor.

The Japanese carrier strike force that attacked Pearl Harbor at 0755 on Sunday, December 7, 1941 set sail for its target on November 26, 1941. The remaining ships of the Fleet followed a few days later. To avoid detection, the Combined Fleet plotted a course that took it from the rough waters of the Kurile Islands between Japan and Siberia south-east to a point 200 miles north of Pearl Harbor. That route was far from the commercial shipping lanes. Once the carriers reached that point they launched their aircraft.<sup>6</sup> The large mass of aircraft was detected at 0702 by Private Joseph L. Lockard at radar station 6QN Opana. Lockard and Private George Elliott had been on duty since 0400 and were scheduled to shut down the station and go off duty at 0700. However, they decided to get in some extra training before the truck came to take them to breakfast. Elliott had not been in Lockard's outfit long and needed training.<sup>7</sup>

Before Elliott could sit behind the radar scope, Lockard detected an unusually large number of planes. Since there had been no other activity that morning, he instructed Elliott to plot them. Lockard initially detected the aircraft 136 miles to the north. When the flight had

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<sup>6</sup> John Keegan, *The Second World War*, (New York: Penguin Books, 1989), 253.

<sup>7</sup> Pearl Harbor Attack, *Hearings Before the Joint Congressional Committee on the Investigation of the Pearl Harbor Attack*, 79th Congress, First Session, 1946, Part 27: 531. (Hereinafter PHA)



closed to a distance of 132 miles, Lockard told Elliott to call the Information Center at Fort Shafter to “see if there was anyone around.”<sup>8</sup> The only person Elliott could reach was switchboard operator, Private Joseph P. McDonald, who was due to be relieved at 0700, but his replacement was late coming back from breakfast. McDonald spoke to Elliott at 0720, Elliott reported the planes, their direction, and distance. McDonald, while Elliott was still on the line, relayed the report to Tyler.<sup>9</sup>

Tyler and McDonald were the only people in the information center at 0720 except for someone keeping a historical record of plots; everyone else when off duty at 0700. Tyler was not told what his specific duties were in the information center. He was sent there for training and to observe. Tyler had only been in the information center once before, the previous Wednesday, as part of a tour group.<sup>10</sup> Through McDonald, he received Elliott’s report of “an awful big flight,” but did not respond. McDonald went back on the phone with Lockard. McDonald relayed Tyler’s lack of concern. Unsatisfied, Lockard asked to speak to Tyler.<sup>11</sup> Tyler took the receiver; Lockard reported again the approach of a large number of aircraft from the north and Tyler told Lockard, “don’t worry about it.”<sup>12</sup> The report died there. Tyler did not make any report to his superiors.

The Japanese aircraft had been detected by Private Lockard and reported to Lieutenant Tyler, who chose not to report it up the chain of command. Had Tyler done so, he could have given Army and Navy forces at Pearl Harbor a fighting chance, thus possibly changing the sneak attack into the Battle of Pearl Harbor. The thirty-five minute warning before the Japanese attack that Lockard’s report provided could have been used to launch fighters and prepare ships at anchor for the coming attack, but no such preparations occurred because a junior officer made an error in judgment. In fairness to Tyler, he was very inexperienced. He had no way of

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<sup>8</sup> PHA, Part 32: 478.

<sup>9</sup> Ibid, Part 29: 2122.

<sup>10</sup> Ibid, Part 22: 223; Part 32: 342.

<sup>11</sup> Ibid, Part 29: 2122; Part 32: The words “awful big flight” were McDonald’s characterization of Elliott’s report.

<sup>12</sup> PHA, Part 22: 221; Part 27: 568.

distinguishing friendly from enemy aircraft, nor did he have any reason to believe there would be a need to do so. Additionally, Tyler was aware that a flight of B-17s was supposed to arrive from the mainland.<sup>13</sup> As General Walter C. Short, Army Commander in Hawaii testified to the Roberts Commission, “He [Tyler] did not figure that it might be a Japanese attack, so he did not alert the Hawaiian Air Force.... It was just one of those errors in judgment it would be pretty hard to blame the Lieutenant for....”<sup>14</sup> The events of the fifty-three minutes before the Japanese attack illustrate two factors that manifest themselves in Lieutenant Kermit Tyler, and that are critical to the analysis of the aftermath of Pearl Harbor: the lack of experienced personnel and the unlikely possibility of the Japanese attacking Pearl Harbor.

United States strategy placed Japan on the back burner, causing the shortages with which Kimmel had to contend. Most of the men, experienced and otherwise, and a majority of materiel were earmarked for the European theatre.<sup>15</sup> The view was held that the Japanese navy did not have the skill or equipment to successfully attack Hawaii. Therefore, the Japanese were less of a threat than Germany. That belief was based on intelligence reports evaluated by military officers and civilian leaders such as President Franklin Roosevelt Secretary Knox, Chief of Naval Operations Harold R. Stark, Admiral William F. Halsey, Secretary of War Henry L. Stimson, and General Short. Additionally, they believed that the Japanese would be preoccupied in the Far East.<sup>16</sup> Thus, if the Japanese attacked the United States, the most probable target would be the Philippines, which were closer to Japan. Furthermore, in 1937, aerial attack from a great distance against a U.S. Fleet at anchor had been considered too risky. Lieutenant Commander Logan Ramsey concluded the risks involved in such a carrier attack

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<sup>13</sup> PHA, Part 22: 223; Part 27: 568; Part 32: 344.

<sup>14</sup> Ibid, Part 22: 50.

<sup>15</sup> By April 1941, the United States Navy had extended its patrol areas in the North Atlantic almost as far as Iceland. By September 1941, the United States was fully involved in the Battle of the Atlantic.

<sup>16</sup> PHA Part 23: 613-614, Part 26: 325-326; Gordon W Prange with Katherine Dillon and Donald Goldstein, *At Dawn we Slept: The Untold Story of Pearl Harbor*, 50<sup>th</sup> Anniversary Edition (New York McGraw-Hill, 1991), 527,553 (hereinafter Prange); David F. Schmitz, *Henry L. Stimson: The First Wise Man*. (Wilmington Delaware: Scholarly Resources Inc, 2001), 142; Donald Brownlow, *The Accused: The Ordeal of Rear Admiral Husband Edward Kimmel, USN, Ret*, (New York: Vantage Press, 1968), 92.

were too enormous for any enemy to jeopardize its entire contingent of aircraft just to destroy a U.S. Fleet. To attempt such an operation would constitute the greatest strategic blunder in naval history.<sup>17</sup> Given this prevailing opinion, one shared by Kimmel, it is understandable that the possibility of a Japanese attack on Hawaii did not occur to Lieutenant Kermit Tyler.

## **Due Process**

The argument that Kimmel was made a scapegoat and unjustly punished, put forth in 2002 by the Admiral's grandson Thomas Kimmel Jr. and others, centers on the assertion that Kimmel was denied due process of law by all the investigations except the Naval Court of Inquiry.<sup>18</sup> An examination of the law of the time illustrates that, while, Kimmel's treatment in the immediate aftermath of Pearl Harbor was unjust, it was perfectly legal. Roosevelt, as Commander-in-Chief, had the legal authority to relieve Kimmel and appoint a commission that did not use formal due process procedures to investigate the attack.

## **Relief of Command**

Like Lieutenant Tyler, neither Admiral Kimmel nor General Short expected an air attack. As Knox discovered during his investigation (December 9, 1941–December 14, 1941), they thought it was unlikely due to the distance between Japan and Pearl Harbor, and the fact that such an attack would expose the Japanese to the superior firepower of the American Fleet. Furthermore, both commanders were of the opinion that if a surprise air attack were attempted, it would be in the Far East. Additionally, Knox made clear that there were an insufficient number of fighter planes and antiaircraft guns available to the Army in Hawaii to defend against an air

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<sup>17</sup> Logan C. Ramsey, "Aerial Attack on Fleets at Anchor," *Naval Institute Proceedings* (August 1937): 1132. On December 7, 1941, Ramsey was Operations Officer on the staff of Rear Admiral P.N.L. Bellinger, Commander Naval Base Defense Air Force,

<sup>18</sup> Thomas Kimmel Jr., "Unfairly Shouldering the Blame," *MHQ: Quarterly Journal of Military History* 14.2 (Winter 2002): 30; Thurmond transcript.

attack because of their diversion to the European theatre.<sup>19</sup> The Navy also lacked a sufficient number of patrol planes to conduct adequate distant reconnaissance for the same reason.<sup>20</sup>

In his report, Knox did not recommend relieving Kimmel. In fact, there was no mention of any personnel action in the report. However, Donald Brownlow maintained that upon his return to Washington, Knox recommended to President Roosevelt the immediate relief of Kimmel and Short.<sup>21</sup> At a press conference the next day, December 15, 1941, Knox stated that “responsibility for errors committed... will be investigated immediately by a Presidential Commission,” and “he declined to anticipate the result of such an investigation.” Furthermore, Knox “ruled out any Pacific shake-up until a complete investigation is made.” He stated in his public report that:

Further action is, of course, dependent upon the facts and recommendations made by this investigating board. We are all entitled to know it if (a) there was any error in judgment which contributed to the surprise, [*sic*] and (b) if there was any dereliction of duty prior to the attack.<sup>22</sup>

Those statements suggest that Roosevelt and Knox did not intend to relieve Kimmel until after the Roberts Commission investigation was complete; and only if the Commission's findings warranted it.

However, Kimmel was relieved on December 16, 1941 – before the Roberts Commission even convened. His deputy was placed in temporary command until Rear Admiral Chester Nimitz assumed command.<sup>23</sup> The reason for the inconsistency was that Secretary of War Henry L. Stimson decided to relieve the Army commanders by December 10, 1941, even before Knox had completed his investigation. That day, Stimson and Army Chief of Staff General George C. Marshall issued orders to Major General Herbert A. Dargue “to proceed to the Hawaiian Islands

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<sup>19</sup> PHA, Part 5: 2342; Part 24: 1753.

<sup>20</sup> Husband E. Kimmel, *Admiral Kimmel's Story*. (Chicago: Henry Regnery Company, 1955), 15; PHA, Part 22: 424.

<sup>21</sup> Donald Brownlow, *The Accused: The Ordeal of Rear Admiral Husband Edward Kimmel, USN, Ret.* (New York: Vantage Press, 1968) 143.

<sup>22</sup> “Heroic Acts Cited,” *New York Times* (New York, NY), December 16, 1941; “Havoc at Honolulu,” *Time* December 22, 1941. <http://www.time.com/time/magazine/article/0,9171,931959,00.html> (accessed July 9, 2009); “Knox Statement on Hawaii,” *York Times* (New York, NY), December 16, 1941.

<sup>23</sup> “Defense Shake-up,” *New York Times* (New York, NY), December 18, 1941; PHA, Part 5: 2430.

to assume command of the Hawaiian Department."<sup>24</sup> However, Stimson did not inform Roosevelt of his intention until December 16, 1941. In a postscript to his personal and confidential letter to the President, Stimson suggested that Kimmel be relieved: "my opinion is that housecleaning which I described in the last paragraph should be synchronized with a similar housecleaning in the Navy Command and all announced at the same time."<sup>25</sup> Paul S. Burtness and Warren U. Ober argued that Stimson's unilateral action forced Roosevelt and Knox to remove Kimmel before the Roberts Commission existed. By relieving Kimmel and Short, the administration affixed responsibility for Pearl Harbor on the commanders. They concluded that the Roberts Commission's primary responsibilities were to justify the administration's actions and restore the "nation's confidence in its government and armed forces."<sup>26</sup> Burtness and Ober constructed a convincing argument through an analysis of Stimson's diary, illustrating that Stimson made certain the Roberts Commission restored the public's faith in the administration.

After Kimmel was relieved, he was attached to the 14<sup>th</sup> Naval District in Hawaii on leave status. Then, on January 15, 1942, Kimmel was attached to the 12<sup>th</sup> Naval District in San Francisco, still on leave.<sup>27</sup> As a consequence of his relief, Kimmel reverted, as a function of law, to the permanent rank of Rear Admiral. Although convoluted and unfair, the process of relieving Kimmel was legal. Even if the attack had never occurred; Kimmel could have been relieved of command at any time by President Roosevelt. Under the Constitution, the Commander-in-Chief has the subjective discretionary power to assign and reassign military personnel, including senior officers, as he deems necessary.<sup>28</sup>

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<sup>24</sup> Quoted in Paul S Burtness and Warren U Ober, "Secretary Stimson and First Pearl Harbor Investigation" *Australian Journal of Politics and History*, 14 (1968): 27 (hereinafter Burtness). Described as letter to the authors from Michael T. Vranesh of the Army section, military personnel records center of the General Services Administration, St. Louis Missouri dated October 29, 1963.

<sup>25</sup> PHA, Part 7: 3260.

<sup>26</sup> Burtness, 29, 36.

<sup>27</sup> Husband E. Kimmel Fitness Records 17 December 1941-15 January 1942, Box 43, Husband Edward Kimmel Papers, 1907-1999, Collection Number 03800, American Heritage Center, University of Wyoming. (Hereinafter Kimmel Papers)

<sup>28</sup> Roger D. Scott, "Kimmel, Short, McVay: Case Studies in Executive Authority, Law, and the Individual Rights of Military Commanders," *Military Law Review* 156 (1998): 69-75.

Kimmel, in fact, was the beneficiary of such discretionary action. His predecessor, Admiral James O. Richardson, was summarily relieved by Roosevelt on January 5, 1941 because Richardson hurt Roosevelt's feelings. At a White House meeting on October 8, 1940, Richardson strenuously argued that the Pacific Fleet be based on the West Coast and not at Pearl Harbor. Richardson disagreed with Roosevelt's conclusion that the presence of the Pacific Fleet at Pearl Harbor was a deterrent to Japanese aggression. He argued that the presence of the fleet at Hawaii might deter a civilian political government, but "that Japan had a military government which knew that the fleet was undermanned and unprepared for war, and had no... auxiliary ships without which it could not undertake active operations. Therefore the presence of the fleet in Hawaii did not exercise a restraining influence on Japanese action." Then Richardson stated that the senior naval officers lacked the confidence in the civilian leadership of the United States that was necessary to achieve victory in the Pacific.<sup>29</sup> Roosevelt disagreed with Richardson and relieved him. He used the same subjective discretionary power to relieve Kimmel. Thus, Kimmel was not denied due process by being relieved of command.

### **The Roberts Commission**

Soon after his relief, Kimmel was occupied with the investigation of the Roberts Commission, which Roosevelt created by executive order, on December 18, 1941. The purpose of its investigation was to ascertain "whether any derelictions of duty or errors of judgment on the part of United States Army or Navy personnel" contributed to the success of the Japanese attack.<sup>30</sup> Roosevelt also empowered the Commission to "prescribe its own procedure."<sup>31</sup> It was the procedures of the Roberts Commission that Kimmel, Rear Admiral Robert A. Theobald, Captain Edward L. Beach, and others argued denied Kimmel the right to counsel. Kimmel argued that the Commission advised him that he was not permitted to have counsel and that he

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<sup>29</sup> PHA, Part 1: 265-266; James O. Richardson with George C. Dyer, *On the Treadmill to Pearl Harbor: The Memoirs of Admiral James O. Richardson* (Washington, DC: Naval Historical Division, 1973): 435-436 (hereinafter Richardson); Prange 39; Kimmel, 7.

<sup>30</sup> PHA, Part 23: 1247.

<sup>31</sup> PHA, Part 23: 1247.

was not on trial. Additionally, Kimmel maintained that his copy of the record did not contain any of the statements to that effect by Supreme Court Associate Justice and Chairman Owen J. Roberts.

Theobald, whom Kimmel asked to act as his counsel, corroborated Kimmel's account and provided a fuller account of the exchange that Kimmel recounted from memory.<sup>32</sup> Edward R. Kimmel, the admiral's son, stated to Senator Strom Thurmond, "The proceedings of the Roberts Commission were a travesty of justice. It denied Admiral Kimmel counsel."<sup>33</sup> Additionally, Beach argued at length that Kimmel was denied due process. He maintained that Kimmel was not afforded his Constitutional right to confront his accusers. Furthermore, Beach asserted that the procedures of the Commission were contrary to the legal procedures of the Navy.<sup>34</sup> Kimmel also contended that: "The Roberts Commission was not conducted in accordance with the rules governing naval investigations. Indeed, it was conducted with complete disregard of all rules of fair play and justice."<sup>35</sup> Moreover, Beach argued that while Kimmel was allowed to submit corrections to his testimony only as an addendum, Marshall and Stark, were allowed to view draft transcripts of their testimony for their "correction and approval before inclusion in the record."<sup>36</sup> Beach's assertion was partially supported by the record with regard to Kimmel's testimony. However, the record contained no clear evidence that Marshall and Stark were given draft transcripts of their testimony for their approval.

From an examination of the Roberts Commission record, it is not clear that Kimmel was denied counsel. It is not even clear from the record that members of the Commission understood that witnesses were or were not to be afforded counsel. If no counsel was allowed, then that fact should have been made clear to the Commission members and to Kimmel on his

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<sup>32</sup> Kimmel, 147; Robert A Theobald, *The Final Secret of Pearl Harbor: the Washington Contribution to the Japanese Attack*, (New York: Devlin-Adair, 1954), xi.

<sup>33</sup> Thurmond Transcript.

<sup>34</sup> Edward L Beach, *Scapegoats: A Defense of Kimmel and Short at Pearl Harbor*, (Annapolis, Naval Institute Press, 1995), 115-116.

<sup>35</sup> Kimmel, 147.

<sup>36</sup> Beach, 117.

first day of testimony. At the beginning of his testimony, Saturday, December 27, 1941, Kimmel requested that Theobald assist him. Kimmel did not specify him as his counsel. Nor did Chairman Justice Roberts ask for clarification that Theobald was acting as counsel. If no counsel was to be afforded witnesses; Chairman Justice Roberts should have made that clear.<sup>37</sup> The likely reason for the confusion was the hurried nature of the Roberts Commission proceedings. The Commission conducted its investigation and reported its findings in less than five weeks. It did not define its procedure before proceeding with its investigation.

Theobald was allowed to assist Kimmel. It was not until that afternoon of the twenty-seventh that the issue of counsel was raised in connection with Theobald being sworn. During the oath, Major General McCoy, a Commission member, stated, "I do not think counsel ought to be asked questions." It was clear to McCoy that Theobald was acting as counsel for Kimmel. However, Chairman Justice Roberts did not understand that Theobald was acting as counsel. Roberts understood that Theobald was there to help Kimmel with information.<sup>38</sup> Kimmel agreed answering, "That is correct, sir."

Roberts then asked Theobald, "... So it is understood that you are not acting as counsel here?"

Theobald answered, "No, sir"

If Theobald understood that he was not acting as Kimmel's counsel, then he should have given an affirmative response. Theobald's response was negative. Then Major General McCoy stated that Kimmel was not on trial. Justice Roberts agreed, adding that the proceedings were not a trial of Kimmel in any sense.<sup>39</sup> After that the matter was dropped. Theobald stated that he accompanied Kimmel during all of Kimmel's testimony before the Roberts Commission.<sup>40</sup> Additionally, Gordon Prange made clear that, in addition to Theobald, Kimmel had several

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<sup>37</sup> PHA, Part 22: 317.

<sup>38</sup> Ibid, Part 22: 374.

<sup>39</sup> PHA, 375.

<sup>40</sup> Theobald, xi



assistants accompany him during his testimony.<sup>41</sup> Those who have argued that Kimmel was denied counsel during the Roberts Commission cannot make such an argument based on the record of the Commission. Theobald was allowed to remain with Kimmel throughout Kimmel's testimony as were Kimmel's other assistants, and as the convening authority, Roosevelt was not required to convene a commission that used due process procedures. In fact, before the enactment of the Uniform Code of Military Justice in 1950, a convening authority could proceed to a general court-martial without any investigation.<sup>42</sup>

Beach's assertion that Marshall and Stark were allowed to view draft transcripts to correct their testimony also was not clearly supported by the record. The record showed that on December 18 and 19, 1941, the Commission took unsworn non-verbatim statements from Marshall, Stark, and other officers in Washington before departing for Hawaii.<sup>43</sup> Additionally, the Commission met informally with Secretary of War Stimson and Secretary of the Navy Frank Knox on December 17, 1941. At that meeting, Knox described in detail what he saw at Pearl Harbor and reported to Roosevelt.<sup>44</sup> In the Commission record, Justice Roberts did not detail what was discussed. He only stated that both Secretaries "proffered the fullest cooperation of their Departments in ascertaining the facts relevant to the Commission's function."<sup>45</sup> Prange relied on Stimson's diary entry for an account of what was discussed at the informal meeting.<sup>46</sup> Stimson and Knox were never called to testify before the Commission.

However, Marshall and Stark did give sworn testimony on January 19, 1942. The December 18, 1941 meeting was mentioned by Justice Roberts as was the General's prior unsworn non-verbatim statement:

The CHAIRMAN. General Marshall, we are particularly interested in ascertaining the exact facts with respect to the message you forwarded to the Commanding

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<sup>41</sup> Gordon W. Prange with Katherine Dillon and Donald Goldstein, *At Dawn we Slept: The Untold Story of Pearl Harbor*, 50<sup>th</sup> Anniversary Edition (New York McGraw-Hill, 1991), 596. (hereinafter Prange)

<sup>42</sup> Scott, 92-94.

<sup>43</sup> PHA, Part 22: 1-3.

<sup>44</sup> Prange, 593; PHA, Part 23: 1246.

<sup>45</sup> PHA, Part 23: 1246.

<sup>46</sup> Prange, 802, Chapter 70, note 3.

General of the Hawaiian Department on the morning of December 7, 1941. You stated those informally to us when you were with us before, but we took down nothing about it at that time.

General MARSHALL. Yes, sir. Mr. Justice, Colonel Howe handed me the other day a draft of a statement--

The CHAIRMAN. Of a finding, yes.

General MARSHALL. --of a finding regarding that particular matter, and asked me, as I understand it, to correct that in terms as I understood them.<sup>47</sup>

While, Walter Bruce Howe was recorder for the Roberts Commission, it was not clear from the above record that Colonel Howe and Walter Bruce Howe are the same person. In fact, a letter from the firm of Hart and Dice Shorthand Reporters refers to a conversation with Mr. Howe about stenographers for the Commission's trip to Hawaii.<sup>48</sup> If he were an army officer the letter would have referred to him as Colonel Howe. Furthermore, on page three of the Roberts Commission record, his name was stamped Walter Bruce Howe.<sup>49</sup> Accepting, for the sake of argument, that Colonel Howe was the reporter for the Commission, it does not necessarily follow based on the above record or the rest of Marshall's testimony that Marshall was given a draft of his earlier statement for correction.<sup>50</sup>

Stark, with the assistance of Admiral Richmond Kelly Turner was allowed to submit abstracts of statements made by Turner, Stark, and another naval officer to the Commission. The abstracts were supplied to the Commission sometime after 1:00 PM on Monday, January 19, 1942.<sup>51</sup> It is reasonable to conclude that during preparation of those abstracts corrections were made to the testimony of Stark and Turner. However, the abstracts were supplied to the Commission on the same day their testimony was given, thus it is unlikely that they were supplied with draft transcripts of their testimony from which to prepare abstracts.

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<sup>47</sup> PHA, Part 23: 1075.

<sup>48</sup> Ibid, Part 23: 1248.

<sup>49</sup> Ibid, Part 22: 3.

<sup>50</sup> PHA, Part 23: 1075-1082. Since Beach did not use footnotes or in text citations, there was only an annotated bibliography in his book. It is difficult to determine the evidence on which he based his conjecture about General Marshall being allowed to correct his testimony, (Beach, 187-206).

<sup>51</sup> PHA, Part 23: 1273; Part 24: 1355-1361.

The Roberts Commission did not treat all its witnesses equally. As Beach and Kimmel argued, Kimmel was allowed to submit corrections to his testimony only as an addendum. That is, the original transcript with Kimmel's corrections at the bottom of every page. Eventually, the Commission did incorporate Kimmel's corrections into his testimony, but it made clear that his corrected testimony was not part of the Commission transcript. It was published as an "Annex to the transcript and not a part thereof... and in compliance with Rear Admiral Kimmel's request."<sup>52</sup> Kimmel did not receive a copy of the Commission proceedings until 1944.<sup>53</sup>

Burtness and Ober argued that relieving Kimmel and Short before the convening of the Commission placed blame on them, thus reducing the primary responsibilities of the Commission to justifying the administration's actions and restoring the nation's confidence in its government and armed forces. Those responsibilities made the Commission susceptible to political interference. Burtness, Ober, and Kenneth Kitts illustrated through Stimson's diary that Stimson met with commission members on at least seven occasions while they were conducting their investigation.<sup>54</sup> In as much as Stimson was an interested party, those meetings could be viewed as *ex parte* and prejudicial.<sup>55</sup>

While Prange viewed Stimson's actions as the result of the "psychological frenzy and fuzzy thinking" that existed in the immediate aftermath of the attack, when viewed against the backdrop of his entire career, it is difficult to accept that Stimson could succumb to such rage.<sup>56</sup> David F. Schmitz concluded, "after Franklin Roosevelt, Woodrow Wilson, and Theodore Roosevelt, Stimson ranks as the most important American policymaker of the first forty-five years of the twentieth century."<sup>57</sup> The Japanese attack on Pearl Harbor was not Stimson's first crisis. Stimson had served as Secretary of War once before and Secretary of State. His only

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<sup>52</sup> PHA, Part 22: 3.

<sup>53</sup> Kimmel, 147.

<sup>54</sup> Burtness, 29-24; Kenneth Kitts, *Presidential Commissions and National Security: The Politics of Damage Control*, (Colorado: Rienner, 2006), 35-36.

<sup>55</sup> *Ex parte* is a Latin legal term meaning from one part or side, or strongly biased point of view.

<sup>56</sup> Prange, 593;

<sup>57</sup> David F. Schmitz, *Henry L. Stimson: The First Wise Man*. (Wilmington Delaware: Scholarly Resources Inc, 2001), 210.

concerns were his duty and getting the job done right. From the moment of the attack, the United States was at war and victory had to be won at the earliest possible moment.<sup>58</sup> In order to achieve victory, it was necessary to restore the people's faith in the military and the government. Thus, Stimson took his share of the blame, but he made certain that the Roberts Commission restored the public's faith in the administration. The Roberts Commission was subjected to a high degree of political interference; its proceedings were inconsistent and unfair, but it was legal.

## Court-martial

Thomas Kimmel's argument, aside from overlooking the applicable law of the time, also overlooks Admiral Kimmel's own actions regarding possible court-martial. Scrutiny of the events that occurred in the wake of the Roberts Commission demonstrates that Kimmel agreed to waive the statute of limitations pertaining to court-martial and declined to participate in the Hart Inquiry (February 12-June 15, 1944), which would have afforded him counsel and the right to cross-examine witnesses and introduce evidence.

## Roberts Report

The Roberts Commission submitted its report to the President on January 23, 1942. On January 25, 1942, it was published verbatim in the *New York Times*.<sup>59</sup> The Commission found that all four of the top Army and Navy officials fulfilled their obligations:

3. The Secretary of War and the Secretary of the Navy fulfilled their obligations by conferring frequently with the Secretary of State and with each other and by keeping the Chief of Staff and the Chief of Naval Operations informed of the course of the negotiations with Japan and the significant implications thereof.
4. The Chief of Staff and the Chief of Naval Operations fulfilled their obligations by consulting and cooperating with each other, and with their superiors, respecting the joint defense of the Hawaiian coastal frontier; and each knew of, and concurred in, the warnings and orders sent by the other to the responsible commanders with respect to such defense.<sup>60</sup>

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<sup>58</sup> *Ibid*, 15, 151

<sup>59</sup> "Text of the Report of the Roberts Commission on the Facts of the Japanese Attack on Pearl Harbor," *New York Times* (New York, NY), January 25, 1942.

<sup>60</sup> PHA, Part 39: 19.

Given the political interference to which the Commission was subjected, those conclusions were not surprising. Neither was Conclusion Seventeen, which became a focal point for those who argued Kimmel was a scapegoat:

In the light of the warnings and directions to take appropriate action, transmitted to both commanders between November 27 and December 7, and the obligation under the system of coordination then in effect for joint cooperative action on their part, it was a dereliction of duty on the part of each of them not to consult and confer with the other respecting the meaning and intent of the warnings, and the appropriate measures of defense required by the imminence of hostilities. The attitude of each, that he was not required to inform him....<sup>61</sup>

Although Kimmel had been relieved before the publication of the Roberts report, he had hoped to continue his naval service and assist in the war effort. Conclusion Seventeen and its charge of dereliction of duty made it impossible for Kimmel to continue his naval service.

### **Statute of Limitations**

Kimmel requested to be transferred to the retirement list on January 26, 1942, after he was informed by the Navy Department that General Short had requested retirement. The Navy Department also made clear that the information about Short was not meant to influence his decision in any way. To clarify his position, Kimmel sent a second letter to Knox on January 28, 1942 stating that he wished his “request to stand subject only to the determination of the Department as to what ever course of action will best serve the interests of the country and the good of the service.”<sup>62</sup> On the same day, Stimson met with Roosevelt. They discussed the treatment of Kimmel and Short and concluded “that the objections to an immediate court-martial were (1) that it would inevitably make public matters which are military secrets; (2) that it would be impossible to give the defendants a fair trial.”<sup>63</sup> Stimson's objection about the publicizing of military secrets had merit. It would have been devastating to the nation if the Japanese

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<sup>61</sup> Ibid, Part 39: 21.

<sup>62</sup> Ibid, Part 17: 2731-2732.

<sup>63</sup> Joint Congressional Committee on the Investigation of the Pearl Harbor Attack, 79th Congress, First Session, “Henry L. Stimson Notes after Meeting at the White House,” Box 370 Exhibit 171, RG 128, National Archives. (Hereinafter Exhibits JCC)

discovered that the United States was intercepting their diplomatic and military radio traffic. However, a trial would have ensured due process.

Based on the procedure outlined in Stimson's and Roosevelt's discussion, on February 28, 1942 the Navy Department released a statement accepting Kimmel's request for retirement effective March 1, 1942. It also stated that, based on the findings of the Roberts Commission, the Secretary of the Navy ordered the preparation of charges for trial by general court-martial of Kimmel, "alleging dereliction of duty" and the trial would be postponed until "public interest and safety" permitted it.<sup>64</sup> Kimmel learned of these preparations through the press.<sup>65</sup>

According to Article Sixty-One, of *Naval Courts and Boards* "no person shall be tried by court-martial... for any offense which appears to have been committed more than two years before the order of such a trial... unless by some reason having absented himself, or of some other manifest impediment he shall not have been amenable to justice within that period."<sup>66</sup> Because of that statute of limitations, Knox, in August 1943, requested that Kimmel execute a waiver so that the trial could be postponed. Knox stated that "it would be in the best interests of all concerned if you should now agree not to plead the statute of limitations in bar of trial upon my assurance that the trial will be had at the earliest practicable date...."<sup>67</sup> Kimmel complied by September 1943 stating that: "I have always been anxious to subordinate my interests to the national welfare, which appears to require that my trial be delayed." He waived the statute for the duration of the war and for six months thereafter. The waiver was made public in October 1943.<sup>68</sup>

To ensure that all those who may have been responsible for Pearl Harbor, military and civilian, could be tried after the war, Congress debated and passed House Joint Resolution 199,

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<sup>64</sup> PHA, Part 19: 3958; "Kimmel and Short Will Stand Trial; Date is Undecided," *New York Times* (New York, NY), March 1, 1942.

<sup>65</sup> Exhibits JCC, "Facts about Admiral Kimmel's Retirement," Box 368 Exhibit 121.

<sup>66</sup> Article 61, *Naval Courts and Boards*, (1937), 469.

<sup>67</sup> PHA, Part 19: 3953.

<sup>68</sup> PHA, Part 19: 3950-3952; Kimmel and Short Waive Trial Limit," *New York Times*, (New York, NY), October 3, 1943.

which extended “all statutes, resolutions, laws, and regulations, affecting the possible prosecution of any person military or civilian, connected with the Pearl Harbor catastrophe of December 7, 1941, or any other possible or apparent dereliction of duty... for one calendar year after the formal declaration of peace with Japan has been signed and ratified by the Senate of the United States.”<sup>69</sup> Roosevelt signed the resolution on December 21, 1943.<sup>70</sup> Congress extended the statute again in 1944. In June 1945, Public Law 77 extended the statute for an additional six months.<sup>71</sup>

However, making the extension retroactive to the date it expired, December 7, 1943, seemed to be a violation of Article 1, Section 9; Clause 3 of the Constitution, which states in part, “... No ... *ex post facto* law shall be passed.”<sup>72</sup> Nine days after the President signed House Joint Resolution 199, December 30, 1943, the Judge Advocate General of the Navy (JAG) Thomas L. Gatch argued in a memorandum to Knox that Kimmel’s waiver was not strictly necessary, but he agreed to it to ensure there would be a trial. Additionally, the statute of limitations covered the delay of the trial, for the war was a manifest impediment to it. Furthermore, Gatch thought the Navy was justified in ignoring House Joint Resolution 199, for according to the Attorney General a statute of limitations cannot be extended after it has run out.<sup>73</sup>

By waiving the statute of limitations, Kimmel, gave away any possible leverage he had over the government to force it to charge and try him under Article Sixty-One. Kimmel’s counsel, Charles B. Rugg whom Kimmel did not engage until January 1944, explained that Kimmel executed a waiver so that the statute could not be invoked “as a pretext for permanent official

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<sup>69</sup> *House Joint Resolution 199*, 78<sup>th</sup> Congress Second Session, *Congressional Record*, 89.8 (December 7, 1943), 10320-10321; 10347-10350.

<sup>70</sup> “Signs Officer Trials Bill,” *New York Times*, (New York, NY), December 22, 1943.

<sup>71</sup> *Pearl Harbor Catastrophe—Time for Prosecutions Extended*, Public Law 77, 79<sup>th</sup> Congress First Session, (June 7, 1945)

<sup>72</sup> Constitution of the United States of America Article 1, Section 9; Clause 3: “No bill of attainder or *ex post facto* law shall be passed.”

<sup>73</sup> PHA, Part 19: 3940.

inaction in his case.”<sup>74</sup> However, had Kimmel not waived the statute, the government would have had to charge and try him within the two year period, let the statute run out and not try him, or plead to a court that the war was a manifest impediment to Kimmel’s trial. Since Knox requested Kimmel waive the statute, the government intended to try him based on the report of the Roberts Commission.

It is possible the government would have argued the war was a manifest impediment when it did charge him after the war. Kimmel’s counsel could have countered the war had not stopped other courts-martial, and, under Article Sixty-One, Admiral Kimmel, like any other officer or sailor, was entitled to the same due process. During the war there was an average of 14,000 naval courts-martial a month. The highest number of courts-martial was 20,000. Both figures include the Coast Guard and the Marines.<sup>75</sup> The question before the court then would have been: Was the war a manifest impediment to Kimmel’s prosecution? Either way, the court ruled, would have benefited Kimmel. If it found the war was a manifest impediment, the court-martial would have occurred. If it found the war was not, then the government was negligent for allowing the statute of limitations to run out. By 1945, JAG concluded there was insufficient evidence to sustain a conviction on the only two charges worth considering Neglect of Duty and Culpable Inefficiency in Performance of Duty.<sup>76</sup> Had Kimmel not waived the statute of limitations, the Navy Department may have reached that conclusion sooner.

## **Hart Inquiry**

By January 1944, Kimmel was preparing his court-martial defense. At the same time, Knox ordered retired Admiral Thomas C. Hart, who had been Commander-in-Chief Asiatic Fleet on December 7, 1941, “to examine such members of the naval forces thought to have knowledge of facts pertinent to the said surprise attack and fully record the testimony given thereby. Under the authority of Title 5, Section 93, of the U. S. Code, you are authorized and

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<sup>74</sup> Kimmel, vi, ix.

<sup>75</sup> O. S. Colclough, "Naval Justice," *Journal of Criminal Law and Criminology*, 39.3 (1947): 201.

<sup>76</sup> PHA, Part 16: 2260.



directed to administer an oath to any witness called by you to testify or depose in the course of this examination into the subject-named matter.”<sup>77</sup> Knox explained at a press conference on February 25, 1944 that the inquiry was necessary “because many officers were scattered throughout the world and many were engaged in hazardous duties. It is desirable to preclude the possibility of evidence being lost by death or otherwise, by hearing and recording their testimony at the present time.”<sup>78</sup> Admiral Hart’s investigation was an attempt to be “absolutely square with Admiral Kimmel.”<sup>79</sup> Therefore, Kimmel was allowed to have counsel, cross-examine witnesses, and introduce evidence.<sup>80</sup> Through the Hart Inquiry, Knox provided Kimmel with what Kimmel had been requesting since 1942, a naval investigation that would follow formal procedures.

However, Kimmel declined to participate in Admiral Hart’s investigation. In letters between Kimmel and Knox, stipulations developed that placed Kimmel’s “fate completely at the mercy” of the Secretary.<sup>81</sup> Three letters exchanged from February 29 to March 16, 1944 shed some light on Kimmel’s objections. On February 29, 1944, Kimmel wrote Knox about his objection to the limited scope of the examination. The precept limited Hart’s questioning to “naval forces thought to have knowledge of pertinent facts” pertaining to the attack on Pearl Harbor. Kimmel also objected to the closed nature of the proceedings.<sup>82</sup> Additionally, Kimmel stated that:

The Judge Advocate General of the Navy has submitted a draft of an agreement, dated February 28, 1944, the purpose of which is to make all testimony taken under the precept admissible under certain conditions in any court-martial proceedings that may be had against me.<sup>83</sup>

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<sup>77</sup> PHA, Part 26: 4.

<sup>78</sup> PHA, Part 19: 3858; “Kimmel May be Tried Before War Ends; Hart Assigned to Get Data on Pearl Harbor,” *New York Times*, (New York, NY), February 26, 1944.

<sup>79</sup> PHA, Part 19: 3858.

<sup>80</sup> PHA, Part 26: 4.

<sup>81</sup> Kimmel, 158.

<sup>82</sup> From Thomas Kimmel Jr., Emailed to author August 14, 2009 “Husband E. Kimmel to Secretary of the Navy,” February 29, 1944 Judge Advocate General (Navy) Correspondence Relating to Pearl Harbor November 26, 1943-May 24, 1949 RG 125 National Archives (hereinafter JAG Records); PHA, Part 26: 4.

<sup>83</sup> From Thomas Kimmel Jr., Emailed to author August 14, 2009, “Husband E. Kimmel to Secretary of the Navy,” February 29, 1944 JAG Records

Knox replied in a March 4, 1944 letter to Kimmel; he stated that “the precept while confining testimony to members of the naval forces does give Admiral Hart very wide scope...”<sup>84</sup>

Additionally, Knox reminded Kimmel that it was not in the public interest for the proceedings of the examination to be open, for “matters of a very secret nature will be dealt with and their disclosure will be inimical to the war effort,” and that the only purpose of the examination was to preserve testimony of naval officers who because of death or other reason may be unavailable at the “time of any disciplinary action arising from the Pearl Harbor attack.”<sup>85</sup>

In his reply, dated March 16, 1944, Kimmel again stated that JAG had supplied him with a “draft of a stipulation between the Secretary of the Navy and myself regarding the use of testimony to be taken before Admiral Hart...”<sup>86</sup> Circumstance (a) of the stipulation read:

In cases of persons in the naval or military service whom the judge advocate is not authorized to summon. In such cases it should appear that summons for such witnesses have been forwarded to the Secretary of the Navy or other convening authority, and that such action has failed to produce their appearance at the trial.<sup>87</sup>

From this language, it is understandable how Kimmel concluded that the stipulation, far from limiting the circumstances under which such testimony could be used at Kimmel's trial, conferred on “the Secretary of the Navy at the time the power to compel the use of the depositions or recorded testimony in place of living witnesses.”<sup>88</sup> Kimmel believed; if he agreed to such a stipulation, it would restrict his ability to examine and cross-examine witnesses at his

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<sup>84</sup> From Thomas Kimmel Jr., Emailed to author August 17, 2009, “Frank Knox, Secretary of the Navy to Husband E. Kimmel,” March 4, 1944 JAG Records. “I am unable to read any restrictions of scope into the precept of 12 February 1944. On the contrary, the precept while confining testimony members of the naval forces does give Admiral Hart very wide scope; you will note that you are permitted to introduce matter pertinent to the examination, cross-examine witnesses, etc.”

<sup>85</sup> Ibid.

<sup>86</sup> From Thomas Kimmel Jr., Emailed to author August 15, 2009, “Husband E. Kimmel to Secretary of the Navy,” March 16, 1944 JAG Records.

<sup>87</sup> Kimmel Papers, “Agreement for the use of Testimony and Other Evidence Taken during the Examination Ordered by the Secretary of the Navy 12 February 1944” February 26, 1944, Box 3.

<sup>88</sup> From Thomas Kimmel Jr., Emailed to author August 15, 2009, “Husband E. Kimmel to Secretary of the Navy,” March 16, 1944 JAG Records.

trial. Kimmel also thought that the precept was too general in its language, thus open to interpretation by succeeding Secretaries of the Navy.<sup>89</sup>

Thus, Kimmel had three main objections to participating in the Hart Inquiry. The examination being limited to Navy personnel, the closed nature of the proceedings, and the stipulation about how his testimony could be used at his trial. However, in a memorandum for his files dated March 18, 1944, Gatch stated that Kimmel's statement in his letter of March 16, 1944 that JAG had supplied him with a draft stipulation "is misleading in that" Gatch never "approved any such draft." Captain Sailor prepared two drafts and showed them to Gatch, but neither was approved.<sup>90</sup> Regardless of official approval, because of the stipulation and the advice of his counsel, Rugg; Kimmel denied himself an opportunity to present his case through his witnesses and to cross-examine others. Given how Kimmel was relieved, and the fact that the Roberts Commission was allowed to prescribe its own procedure, it is not difficult to understand why Kimmel did not participate in the Hart Inquiry. Knox's public statements did not match his actions.<sup>91</sup> While Kimmel mistrusted Knox, who died of a heart attack during the inquiry, he praised Hart for gathering "much valuable data."<sup>92</sup>

The Hart Inquiry reached no findings of fact nor drew any conclusions. It simply compiled and put testimony on record. Of the forty witnesses from which Hart took testimony, the most interesting testimony came from Admiral Halsey, and Captain Laurance. F. Safford. Halsey and Kimmel were close personal friends and they frequently conferred on all subjects. Halsey testified that Kimmel did not have sufficient numbers of trained men or materiel in Hawaii:

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<sup>89</sup> Ibid

<sup>90</sup> From Thomas Kimmel Jr., Emailed to author August 17, 2009, "Memorandum by Rear Admiral Gatch," March 18, 1944 JAG Records. "The statement in paragraph 2 (f) of Admiral Kimmel's letter that the Judge Advocate General furnished Admiral Kimmel with a draft of a stipulation is misleading in that I never approved any such draft. I saw two such drafts that Captain Sailor had drawn up but I never approved them. In fact, my view was, and I stated it to Sailor at the time, that I believed no stipulation necessary or advisable; that stipulations could be made at any time up trial covering any testimony that should be admitted. In any event no stipulation would be binding unless agreed to by Kimmel, as he well knew, so this imagined objection becomes groundless."

<sup>91</sup> Kimmel, 158; Brownlow, 152.

<sup>92</sup> Kimmel, 159. Knox died on April 28, 1944.

The principle worries at that time were materiel conditions, the heavy turn-over in personnel, the question of balancing security against training and how far he could afford to let his trained men go and still have his Fleet ready for instant action. He was very much against the transfer of so many trained men and the influx of so many new recruits under the conditions that faced us.<sup>93</sup>

Those trained men were transferred to the Atlantic Fleet along with most of the materiel for convoy duty. By April 1941, because of the need to deliver lend-lease supplies to Britain, the United States Navy extended its patrol areas in the North Atlantic almost as far as Iceland. In July 1941, U.S. Marines relieved the British in Reykjavik Iceland.<sup>94</sup> On September 4, 1941, a German U-boat fired torpedoes at an American destroyer from then on the Navy escorted merchant vessels all the way to Iceland.<sup>95</sup>

Additionally, Halsey testified that he thought that the best base for the Pacific Fleet was Manila. Given that the Japanese would probably attack without warning, it would be better to station the fleet closer to Japan. Halsey also made clear that the general consensus was that the Japanese would attack the Far East, for as he put it, "We underestimated their ability to operate carriers, or we did not give it enough consideration." That consensus was in line with his personal estimate that the Japanese would attack the Philippines with their main force.<sup>96</sup> Furthermore, Halsey did not believe that Kimmel was being kept fully informed as to Japanese diplomatic activity. "I did not feel that we were well informed on what the Japs were doing and I felt that we were operating in the dark. I had the personal feeling, entirely personal, that they knew a lot more in Washington than we knew out there and that we should have been informed."<sup>97</sup> Halsey's belief was correct; Kimmel was not fully informed by Washington.

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<sup>93</sup> PHA, Part 26: 318. Halsey was not only commander Aircraft Battle Force Pacific Fleet, he also commanded Task Force 16, which carried the Doolittle raid within striking distance of Japan in April 1942. He was appointed commander of the south Pacific area in October 1942 and led Allied forces to victory in the Guadalcanal campaign from August 7, 1942 to February 9, 1943 as well as carrying out other duties during World War II.

<sup>94</sup> B. B. Schofield, "The Defeat of the U-Boats during World War II," *Journal of Contemporary History*, 16.1, The Second World War: Part 1 (1981): 122.

<sup>95</sup> George Brown Tindall and David E. Shi, *America: A Narrative History* Fourth Edition (New York: W. W. Norton & Company, 1996), 1228. (hereinafter Tindall)

<sup>96</sup> PHA Part 26: 319, 325.

<sup>97</sup> *Ibid*, 325.

## Magic

Such Communication Intelligence was under the responsibility of Captain Laurance F. Safford, the officer in charge in Washington, DC, but evaluation and distribution of such intelligence was the responsibility of the Office of Naval Intelligence (ONI) and Stark. In February 1944, Safford met with Kimmel and informed Kimmel that he had discovered that the “most vital information contained in the decrypted Japanese intercepts” had never been supplied to Kimmel. Then Safford “outlined... the essence of the information available in the Navy Department in the weeks prior to Pearl Harbor....”<sup>98</sup> In April 1944, Safford testified before the Hart Inquiry that the duties of the intelligence station based at Pearl Harbor were to monitor Japanese naval communications to ascertain the deployment and plans of Japanese forces in the Pacific Ocean: “These duties did not include surveillance over Diplomatic communications of any sort.”<sup>99</sup> That diplomatic surveillance, code-named Magic, was the responsibility of the intelligence station based on Corregidor in the Philippines.<sup>100</sup> Those Magic intercepts were sent to ONI in Washington, evaluated, and then distributed based on that evaluation. Since the intelligence station at Pearl Harbor did not have the ability to receive or decode Magic, Kimmel was dependent upon ONI and Stark for such intelligence.

In February 1941, Kimmel informed Stark that “ONI considers it the function of Operations to furnish the Commander-in-Chief with information of a secret nature. I have heard also that Operations considers the responsibility for furnishing the same type of information to be that of ONI.... [I]f there is any doubt as to whose responsibility it is to keep the Commander-in-Chief fully informed... will you kindly fix that responsibility so that there will be no misunderstanding.”<sup>101</sup> Stark replied that the Director of Naval Intelligence, Captain Allan G. Kirk, was fully aware ONI’s “responsibilities in keeping you adequately informed concerning foreign

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<sup>98</sup> Kimmel, 130-131.

<sup>99</sup> PHA, Part 26: 388.

<sup>100</sup> Ibid.

<sup>101</sup> Kimmel, 79-80.

nations, activities of those nations, and disloyal elements within the United States.”<sup>102</sup>

Nevertheless, by October 1941, there was confusion between the Director of Naval War Plans, Admiral Richmond Kelly Turner, and Kirk as to who should evaluate possible enemy intentions and prepare a formal estimate. Before October 1941, it had been the responsibility of the ONI to prepare such estimates. Turner argued that the War Plans Division should be responsible for the interpretation of enemy intentions. Furthermore, ONI was “solely a collection agency and a distribution agency, and was not charged with sending out any information which would initiate any operations....” Stark agreed with Turner.<sup>103</sup>

In June 1941, Kimmel personally delivered an official letter to Stark dated May 25, 1941 describing his “need for information of all important developments affecting our foreign relations....” Kimmel received Stark’s assurance that he “would be informed of all important developments as they occurred, and by the quickest secure means available.”<sup>104</sup> Neither the letter itself nor their discussion of it made clear to Stark that Kimmel was not receiving Magic. Stark testified to the Joint Congressional Committee Investigation (November 15, 1945-May 23, 1946) that he was informed by Turner that Kimmel had the ability to read Magic.<sup>105</sup> Turner believed that Kimmel was getting Magic because the Director of Naval Communications Admiral Leigh Noyes assured him that Kimmel was “getting as much information as we were....”<sup>106</sup> Noyes stated, however, that he thought “Admiral Turner had a clear understanding of what was being received in Pearl Harbor and what was not,” but Noyes never intended to give Turner the impression that Kimmel was receiving Magic.<sup>107</sup>

As a result of the incompetence on the part of Stark, Turner, and Noyes, Kimmel did not receive vital Magic intercepts such as the Bomb Plot message of September 24, 1941. The message was decoded in October 1941. Kimmel should have received it sometime before the

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<sup>102</sup> Ibid, 80.

<sup>103</sup> PHA, Part 4: 1925-1926.

<sup>104</sup> Kimmel, 80-81.

<sup>105</sup> PHA, Part 5: 2175-2177.

<sup>106</sup> PHA, Part 33: 883-884.

<sup>107</sup> Ibid, 897-898.

attack such that Hawaii crystallized as a point of attack for the Japanese. But it was never sent to him.<sup>108</sup> The message read:

Henceforth, we would like to have you make reports concerning vessels along the following lines insofar as possible:

1. The waters (of Pearl Harbor) are to be divided roughly into five sub-areas (We have no objections to your abbreviating as much as you like.)  
Area A. Waters between Ford Island and the Arsenal.  
Area B. Waters adjacent to the Island south and west of Ford Island. (This area is on the opposite side of the Island from Area A.)  
Area C. East Loch.  
Area D. Middle Loch.  
Area E. West Loch and the communication water routes.
2. With regard to warships and aircraft carriers, we would like to have you report on those at anchor (these are not so important) tied up at wharves, buoys and in docks. (Designate types and classes briefly. If possible we would like to have you make mention of the fact when there are two or if more vessels alongside the same wharf.)<sup>109</sup>

ONI read the above in early October 1941. Beach argued, "...It was evaluated by some intelligence officers as the precursor of a possible air attack" on Pearl Harbor. Beach also maintained that: "Kirk saw it as such and urged that it be sent to Kimmel." But Admiral Turner objected and Kimmel was never informed.<sup>110</sup> While Beach offered no evidence to support that assertion, given the struggle between the War Plans Division and ONI, it does seem plausible.

By October, Turner had taken over the interpretation of such messages and probably viewed Kirk's suggestion as interference. Lacking Kirk's insight, Turner most likely misconstrued the meaning of the message because he shared the prevailing view that the Philippines were the most likely target for attack as well as the underestimation of the Japanese ability to operate carriers. Another important message that was not sent to Kimmel was the Winds message. Safford testified to the Hart Inquiry that the Winds message was "the name given by Army and Navy personnel performing radio intelligence duties to identify plain-language Japanese news broadcast in which a fictitious weather report gave warning of the intentions of the Japanese Government with respect to war against the United States, Britain,...

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<sup>108</sup> PHA, Part 6: 2541.

<sup>109</sup> PHA, Part 12: 261.

<sup>110</sup> Beach, 34.

and Russia.”<sup>111</sup> Additionally, Safford testified that on December 4, 1941 Commander McCollum, head of the Far East Division of ONI, drafted a message to be sent to the Commanders-in-Chief of the Asiatic and Pacific Fleets “summarizing the significant events to that date, quoting the ‘Winds Message’, and ending with the positive warning that war was imminent.” The message was approved by Admiral Wilkinson, Kirk’s replacement as Director of Naval Intelligence, and discussed with Noyes in Safford’s presence. Noyes was of the opinion that the message was an “insult to the Commander-in-Chief’s intelligence.” Wilkinson disagreed, pointing out that ... “Kimmel is a very busy man, with a lot of things on his mind, and he may not see the picture as clearly as you and I do.” Safford did not learn until 1943 from reading the Roberts report that McCollum’s message was never sent.<sup>112</sup>

Thus, from September 24 to December 4, 1941, there were Magic intercepts available in Washington that, had they been sent to Kimmel, would have aided his judgment. Kimmel testified to the Joint Congressional Committee Investigation that the information “would have changed [*sic*] his ideas completely” and those of his staff.<sup>113</sup> The significance was not that the consulate was transmitting these messages to Tokyo, but “Tokyo’s anxiety to have it... there is no reason why they would have wanted the information unless they were going to use it on ships while they were in the harbor.”<sup>114</sup> However, the fact that Kimmel was not sent Magic does not mean that it was withheld due to malicious intent. A combination of incompetence and misinterpretation were the reasons for the errors in judgment that resulted in vital information not being sent to Kimmel. Safford’s Hart Inquiry testimony brought the information to light and Kimmel used the information effectively during the Naval Court of Inquiry and the Joint Congressional Committee Investigation, both of which Kimmel’s counsel Rugg initiated.<sup>115</sup>

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<sup>111</sup> PHA, Part 26 393.

<sup>112</sup> *Ibid.*

<sup>113</sup> PHA, Part 6: 2541-2542, 2610.

<sup>114</sup> PHA Part 6: 2610.

<sup>115</sup> Kimmel, ix, 166-167; Prange, 618. The Naval Court of Inquiry was the second investigation to afford Kimmel counsel, the right to cross-examine witnesses, and introduce evidence.



Safford also testified during the Naval Court of Inquiry, the Army Pearl Harbor Board, and the Hewitt Inquiry (May 14–July 11, 1945) about Magic.<sup>116</sup>

### **Dereliction and Neglect of Duty**

From Kimmel's point of view, the purpose of the investigations, and possible court-martial was to gather evidence and present it publicly that would clear him of the Roberts Commission charge of dereliction of duty. Through the years, Kimmel's family and supporters have contended that the "dereliction of duty charge is the genesis of the injustice done to Admiral Kimmel," for it declared him guilty without trial.<sup>117</sup> However, the 1995 Defense Department report submitted by Undersecretary of Defense Edwin Dorn or (Dorn Report) and Roger Scott argued that dereliction of duty was not a court-martial offense, and Kimmel was never charged with neglect of duty, which was a court-martial offense.<sup>118</sup> The argument has two weaknesses. First, it overlooks the fact that the Roberts Commission, whose report levied the charge, was unfair, and its questionable findings were made public in January 1942. Second, it fails to consider that neither the press, Congress, the Navy Department, the President, nor the public drew a distinction between dereliction of duty and neglect of duty. In his executive order creating the Roberts Commission, Roosevelt used the words "dereliction of duty." Congress in its extensions of the statute of limitations and the Navy Department in its press release of March 1942 were inundated with the same words. The press reported that Kimmel would be court-martialed on the charge of dereliction of duty.<sup>119</sup>

Thus, in the public's mind, dereliction of duty was a court-martial offense. Additionally, Knox requested that Kimmel waive the statute of limitations so Kimmel could be tried based on

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<sup>116</sup> PHA, Part 8: 3555-3814, 3842-3893; Part 29: 2361-2400; Part 33: 769-783; Part 36: 60-77, 312-318, 355-358.

<sup>117</sup> Thurmond transcript; Beach, 119.

<sup>118</sup> Articles for Government of the Navy 1930, Article 8 Section 9, <http://www.history.navy.mil/faqs/faq59-7.htm> (accessed May 30, 2008); Dorn Report, Part 3: 2; Scott, 97-98.

<sup>119</sup> "Kimmel and Short Will Stand Trial; Date is Undecided," *New York Times* (New York, NY), March 1, 1942; "Kimmel and Short Waive Trial Limit," *New York Times*, (New York, NY), October 3, 1943

the findings of the Roberts Commission, specifically dereliction of duty. Furthermore, there was no public or official distinction between the synonyms dereliction and neglect. Even though the Naval Court of Inquiry submitted its findings and opinions in mid-October 1944, which stated that “based upon the facts established, the Court is of the opinion that no offenses have been committed nor serious blame incurred on the part of any person or persons in the naval service” and recommended that no further proceedings be contemplated, they were not made public until the end of August 1945.<sup>120</sup> The charge of dereliction of duty, like Kimmel’s relief from command, fixed responsibility for the Pearl Harbor disaster almost entirely on him, and drawing such a distinction between dereliction and neglect of duty now, ignores the effect of the charge at the time.

Neglect of duty was only used twice. First, in the JAG endorsement of the Hewitt Inquiry written by Gatch to the new Secretary of the Navy James Forrestal dated August 10, 1945. Then, in the charges and specifications JAG prepared. Although undated, the charges and specifications for the general court-martial of Kimmel were prepared by a junior officer, most likely in compliance with the directive of Knox in February 1942.<sup>121</sup> However, there was no indication that Knox or Gatch ever approved them and Kimmel was never formally charged with a court-martial offense by the Navy Department. In fact, in his endorsement of the Hewitt Inquiry, Gatch made clear that there was not enough evidence to sustain a charge of Neglect of Duty or Culpable Inefficiency in Performance of Duty: “no clearly defined duty can be established which was neglected or improperly performed.”<sup>122</sup> Additionally, Gatch argued that because Knox requested Kimmel execute a waiver, the Navy was “morally obligated” to court-martial Kimmel should he so insist.<sup>123</sup> Gatch recommended to Forrestal, who replaced Knox in May 1944, that a copy of his memorandum and all other Pearl Harbor records be made available to Kimmel as soon as possible, and that Kimmel was free to make public anything in those

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<sup>120</sup> PHA, Part 39: 321; “Pearl Harbor Reports,” *New York Times*, (New York, NY), August 30, 1945

<sup>121</sup> PHA, Part 16: 2260; Part 11: 5494-5497.

<sup>122</sup> *Ibid*, Part 16: 2260.

<sup>123</sup> *Ibid*.

records. Gatch's final recommendation was that Kimmel be informed that the Navy would convene a general court-martial upon his request.<sup>124</sup>

On August 28, 1945, based on Gatch's recommendations, Forrestal offered Kimmel trial by general court-martial. Citing the pending Congressional Investigation, Kimmel deferred his reply and he was never tried.<sup>125</sup> It is probable that Kimmel never replied because the Joint Congressional Committee Investigation concluded in July 1946 well after his waiver had expired. Additionally, he was probably aware of Gatch's conclusions about the unconstitutionality of the Congressional extensions of the statute of limitations, and the lack of evidence needed to sustain the charges of Neglect of Duty and Culpable Inefficiency in Performance of Duty. Thus, Kimmel chose not to be court-martialed.

### **Could Kimmel have done more?**

Those who assert that Admiral Kimmel could have done more with the resources available to him do so with the benefit of hindsight. The Dorn report focused on long-range aerial reconnaissance asserting that if the available aerial resources had been "properly employed in an integrated and coordinated fashion at a reasonable state of readiness, these resources could have made an enormous and perhaps critical difference in the events of December 7." The report overlooked the fact that there were an insufficient number of planes and personnel to conduct long-range aerial reconnaissance for an extended period of time.<sup>126</sup> The contention did not take into account the United States' "Germany first" strategy, which caused the shortages of men and materiel. Nor did it consider the prevailing opinion that the Japanese Navy did not have the skill or the equipment to attack successfully Hawaii. The belief

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<sup>124</sup> PHA, Part 16: 2261.

<sup>125</sup> Exhibits JCC, Letter Forrestal to Kimmel, "Court-martial in your Case," August 28, 1945; Kimmel's reply, September 8, 1945, Exhibit 107 Box 367. "In view of the agitation for a Congressional Investigation before Congress reconvened and the action of the Senate in ordering a joint Congressional Investigation of Pearl Harbor, I wish to defer my reply to your letter of 28 August 1945 until that investigation is complete." No record of Kimmel's reply to Forrestal's offer could be found in either the Kimmel or Forrestal papers.

<sup>126</sup> Dorn Report, Part 3: 14.

was that the Japanese would be preoccupied in the Far East. Placed in their appropriate context, Kimmel's decisions, based on available information and resources, were reasonable.

### **Defense against Aerial Attack**

In "Guilty as Charged?" Frederic Borch maintained that Kimmel could have used those resources more effectively.<sup>127</sup> Borch's assertion that aerial patrol could have been conducted more effectively with the airplanes available to Kimmel and Short does not take into account that there were not enough planes at any time to "cover a distance more than one-fourth of the area through which a force could approach Pearl Harbor, and coverage maintained for a few days only."<sup>128</sup> In a radius of 360 degrees there are four spokes of 90 degrees. Kimmel only had enough planes to cover one 90 degree spoke at a time, which left a 270 degree area unsearched. Given the maintenance requirements of the search aircraft, Kimmel's decision to send out search planes when "there was information from other sources that a carrier strike against the islands was possible within narrow time limits" was reasonable, considering the fact that Army radar was manned providing 100 mile coverage.<sup>129</sup> Additionally, Borch contended that fleet patrol planes could have been used for long-range reconnaissance when the fleet was in port.<sup>130</sup> However, the two carriers, *Enterprise* and *Lexington*, their task forces, and air reconnaissance planes were not in port on December 7, 1941. They were ferrying fighters to Midway and Wake Islands under orders from Washington.<sup>131</sup> Logan Ramsey, Operations Officer on the staff of Rear Admiral P.N.L. Bellinger, testified before the Naval Court of Inquiry that there were not a sufficient number of patrol planes, spare parts, or pilots to have conducted continuous distant reconnaissance to 700-800 miles that encompassed a radius of 360 degrees. Eighteen planes would have been required to conduct daily 700-mile reconnaissance

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<sup>127</sup> Frederic Borch, "Guilty as charged?" *MHQ: Quarterly Journal of Military History* 13.2 (Winter 2001) 56.

<sup>128</sup> Kimmel, 15.

<sup>129</sup> *Ibid*, 15, 9; PHA Part 22: 420, 424.

<sup>130</sup> Borch, 58.

<sup>131</sup> William F. Halsey. & J. Bryan III, *Admiral Halsey's Story*, (New York: Whittlesey House, 1947), 73, 75-76.

operations, covering 144 degrees and leaving 216 degrees of that sector uncovered.<sup>132</sup> 360 degree reconnaissance could be conducted in an emergency, but it could only be maintained for one or two days and only if necessary spare parts were available.<sup>133</sup> Spare parts were not available.

Thus, it was decided jointly by the Army and Navy in Naval Base Defense Air Force Operation Plan A-1-41, Addendum I March 31, 1941 (Martin-Bellinger report), that running daily patrols as far as possible from Oahu in a 360 degree radius were desirable but could not be maintained due to a lack of personnel and equipment. As a result, it could only be initiated when intelligence indicated that a surface raid was possible within “rather narrow time limits.”<sup>134</sup> Intelligence included radar and Magic intercepts. Even though the Martin-Bellinger report stated that a surprise attack on Oahu was possible, the prevailing opinion was that the Philippines were a more likely target, thus placing the Asiatic Fleet on the front line. The Martin of the Martin-Bellinger report was Major General Frederick Martin commander of the Hawaiian Air Force, thus the Army was fully aware of the above analysis. Additionally, Kimmel based his decision on the report’s reasonable assessment.

The Martin-Bellinger report also stated that “at present such an attack would most likely be launched from one or more carriers which would probably approach inside of 300 miles.”<sup>135</sup> Although the Dorn report, Borch, and Martinez concluded that Kimmel’s decision to conduct no long-range aerial reconnaissance was a poor choice, it was reasonable given that it was based on the Martin-Bellinger estimate.<sup>136</sup> Ramsey testified to the Naval Court of Inquiry that, in accordance with an approved operating schedule, he drew up detailed plans for a “constant daily scout” on the Monday through Thursday before December 7, 1941. Primarily for training purposes, that reconnaissance did not extend beyond 400 miles in a northwesterly direction.

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<sup>132</sup> PHA Part 32: 443.

<sup>133</sup> Ibid, 442.

<sup>134</sup> PHA Part 15: 1466

<sup>135</sup> PHA, Part 15: 1465.

<sup>136</sup> Dorn Report, Memorandum: 4; Borch, 58; Martinez, 71.

Saturday and Sunday were “planned as a period of maintenance and upkeep.”<sup>137</sup> Ramsey made clear that reconnaissance was ordered and conducted to a distance of 400 miles, which was 100 miles further than the range that the Martin-Bellinger report postulated within which an air attack might be launched.<sup>138</sup>

However, neither Stark’s replacement, Chief of Naval Operations Admiral Ernest King nor Secretary of the Navy Forrestal, seems to have been aware of Ramsey’s testimony. In his endorsement of the Naval Court of Inquiry, Forrestal concluded that Kimmel’s most “grievous failure was his failure to conduct long-range air reconnaissance in the more dangerous sectors from Oahu during the week preceding the attack.”<sup>139</sup> King also concluded that Kimmel could have used the patrol aircraft that were available.<sup>140</sup> According to Kimmel’s memorandum of his December 7, 1944 meeting with King, King “said he had not read the testimony given before” the Naval Court of Inquiry.<sup>141</sup> It is equally possible that Forrestal did not read the testimony given before the Naval Court of Inquiry before drawing his conclusion. Forrestal’s conclusion, aside from ignoring the lack of patrol planes, pilots, and spare parts, assumed twenty-five mile visibility for long-range reconnaissance of 700-800 miles around Oahu. Weather did restrict the effectiveness of aerial reconnaissance. Ramsey testified that the visibility around the island was either “very good or nonexistent,” and in the sectors where it was nonexistent reconnaissance was useless.<sup>142</sup>

Regardless of Forrestal’s oversights, Prange, or more likely his, co-authors Katherine Dillon and Donald Goldstein, agreed with Forrestal’s conclusion that there were sufficient planes for Kimmel to have conducted long-range air reconnaissance in the more dangerous sectors

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<sup>137</sup> PHA, Part 32: 451.

<sup>138</sup> The report theorized that the Japanese would launch their attack less than 300 miles from Oahu. Reconnaissance flights were conducted as far as 400 miles from Oahu.

<sup>139</sup> PHA, Part 39: 368.

<sup>140</sup> Ibid, Part 39: 344.

<sup>141</sup> Kimmel Papers, Memorandum of December 7, 1944 Interview with Admiral King, 2, Box 35.

<sup>142</sup> PHA, Part 32: 446.

from Oahu.<sup>143</sup> Dillon and Goldstein also seemed to have been unaware of Ramsey's testimony, for they, like the Dorn report, Borch, and Martinez, implied that Kimmel conducted no aerial reconnaissance. Additionally, Dillon and Goldstein focus on Forrestal's phrase "the more dangerous sectors from Oahu," arguing that 360 degree reconnaissance was not necessary and that Navy aircraft should have been deployed based on the "carefully reasoned estimates" of the Martin-Bellinger report.<sup>144</sup> Dillon and Goldstein implied that the Martin-Bellinger report identified more dangerous sectors. It did not. Nowhere in the pages of the report did it indicate any sector as more dangerous or the likely sector from which a Japanese air attack would come from.<sup>145</sup> Furthermore, in their Afterword, Dillon and Goldstein stated that the Martin-Bellinger report had one serious flaw: it "postulated that the attack on Oahu would occur after war had been declared."<sup>146</sup> That statement is wrong. The Martin-Bellinger report clearly stated that:

A declaration of war might be preceded by:

1. A surprise submarine attack on ships in the operating area.
2. A surprise attack on Oahu including ships and installations in Pearl Harbor.
3. A combination of these two....<sup>147</sup>

Their mistake is even more egregious given the fact that the above passage is quoted at length in *At Dawn We Slept*.<sup>148</sup>

Thus, despite conclusions to the contrary, Kimmel did use the available resources to conduct aerial reconnaissance according to the Martin-Bellinger report. Additionally, the Martin-Bellinger report did not identify any sector as more dangerous or any direction as a more probable approach of an enemy attack. In fact, even after the attack in January 1942, Admiral

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<sup>143</sup> Prange, 733. Gordon Prange died in May 1980. *At Dawn We Slept* was first published in 1981 and then again in 1991. Dillon and Goldstein, Prange's former students, edited Prange's multivolume manuscript into the book. The Chapter titled "The Verdict of History" appears to have been written by them. The chapter's style of writing is different from the rest of the book, which was clearly based entirely on Prange's manuscript, but is similar to the Afterword, which appears in the 1991 edition and was written by Dillon and Goldstein.

<sup>144</sup> Ibid.

<sup>145</sup> PHA, Part 15: 1464-1468.

<sup>146</sup> Prange, 749.

<sup>147</sup> PHA, Part 15: 1465.

<sup>148</sup> Prange, 94.

Nimitz, Kimmel's ultimate replacement, officially stated "it cannot be assumed that any direction of approach may safely be left unguarded."<sup>149</sup> Washington was aware of and approved the Martin-Bellinger report. As Admiral Turner testified to the Joint Congressional Committee:

We agreed thoroughly with it, approved it, and it was comforting and gratifying to see that officers in important commands out there had the same view of the situation as was held in the War and Navy Departments.<sup>150</sup>

By the time Forrestal became Secretary of the Navy in May 1944, he should have known the conclusions of both the Martin-Bellinger report and Nimitz's letter. President Roosevelt appointed Forrestal Undersecretary of the Navy in 1940; the Martin-Bellinger report was completed in March 1941, and Nimitz submitted his letter in January 1942.

Even if he was not aware of them, the Naval Court of Inquiry concluded that "the deficiencies in personnel and material which existed during 1941 had a direct adverse bearing upon the effectiveness of the defense of Pearl Harbor on and prior to 7 December."<sup>151</sup> Forrestal drew a conclusion that was contrary to the Martin-Bellinger report, and the conclusions of the Naval Court of Inquiry. The Dorn report, Borch, Martinez, Dillon and Goldstein agreed with Forrestal's erroneous conclusion. Thus, they have perpetuated the fallacy that Kimmel should have conducted long-range aerial reconnaissance in the more dangerous sectors from Oahu in the face of evidence that clearly illustrated that Kimmel used his aerial resources efficiently given the circumstances.

The Dorn report and Borch also argued that anti-torpedo netting could have been deployed to protect the vessels anchored at Pearl Harbor, but Kimmel considered it unnecessary.<sup>152</sup> Ramsey, in his 1937 article, maintained that anti-torpedo netting may not be practicable in all anchorage situations.<sup>153</sup> In February 1941, Stark, in an official letter to Kimmel on the subject, concluded that the congested nature of Pearl Harbor and the "necessity for

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<sup>149</sup> PHA, Part 17: 2489.

<sup>150</sup> PHA, Part 4: 1941.

<sup>151</sup> PHA, Part 39: 319.

<sup>152</sup> Dorn Report, Part 3: 15; Borch, 58-59.

<sup>153</sup> Ramsey, 1130.



maneuvering room limit the practicability” of the available type of torpedo netting.<sup>154</sup> Stark also pointed out available netting was “extremely expensive, extremely heavy;” its anchors and moorings take up about “200 yards of space perpendicular” to the line of the netting.<sup>155</sup> Kimmel concurred, stating that “until a light efficient net, that can be laid temporarily and quickly, is developed, no... nets should be supplied this area.” Rear Admiral Claude C. Bloch Commandant 14<sup>th</sup> Naval District held a similar view. He added that the main ship channels were “crossed by cable and pipelines as well as ferry routes the installation of [*sic*] nets for the fleet moorings would have to be so extensive that most of the entire channel area would be restricted.”<sup>156</sup> Thus, the decision not to install anti-torpedo nets was made by the Navy Department in consultation with the area commanders.

Nevertheless, Borch cited a June 1941 official letter from Stark to his District commanders, a copy of which was sent to Kimmel, stating:

It cannot be assumed that any capital ship or other valuable vessel is safe when at anchor from this type of attack if surrounded by water at a sufficient distance to permit an attack to be developed and a sufficient run to arm the torpedo.<sup>157</sup>

The conditions that made deployment of the anti-torpedo netting impracticable still existed. Even though Stark pointed out that the United States and the British had successfully dropped torpedoes in depths of “considerably less than 75 feet and made excellent runs,” he also pointed out that depth of water will be one of the factors considered by any attacking force and an attack launched in relatively deep water (10 fathoms or more) is more likely.”<sup>158</sup> Ten fathoms equals sixty feet. The water depth of the harbor was thirty feet or less except in the channels where it was generally forty feet.<sup>159</sup> After reading Stark’s conclusion, Kimmel and Bloch believed that an

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<sup>154</sup> PHA, Part 17: 2700.

<sup>155</sup> Ibid, 2701.

<sup>156</sup> PHA, Part 17: 2703.

<sup>157</sup> Borch 59; PHA, Part 33: 1318.

<sup>158</sup> PHA, Part 33: 1318; B. H. Liddell Hart *History of the Second World War*. (New York: G. P. Putnam's Sons, 1971), 212. The successful British naval air attack on the Italian Fleet at Taranto in November 1940 sank three battleships anchored in a well fortified harbor with a water depth of about 75 feet using only 21 torpedoes. A fathom is a nautical measurement equal to six feet.

<sup>159</sup> Kimmel, 19.

aerial torpedo attack on Pearl Harbor was unlikely.<sup>160</sup> Stark, Kimmel, and Bloch could not have known that the Japanese had modified their torpedoes such that they would operate in the shallow waters of Pearl Harbor.

Thus, the assertion made by the Dorn report and Borch that anti-torpedo nets could have been deployed to protect the vessels anchored at Pearl Harbor was based on a fact that was not known to Kimmel at the time he made his decision. Assessing Kimmel's decisions in hindsight takes them out of context and hinders accurate analysis. Placed in historical context, both Kimmel's decisions concerning long-range aerial reconnaissance and the installation of anti-torpedo netting, were reasonable. The only foolproof way to defend a fleet against aerial attack was to detect the enemy and attack him before he could launch his aerial assault.<sup>161</sup> Kimmel did not have the resources necessary for such a defense.

### **Prevailing Opinion**

Borch maintained Kimmel was aware that well known air power expert Brigadier-General William "Billy" Mitchell predicted an aerial attack on naval vessels in 1924. He also asserts that, in addition to the estimates of the Martin-Bellinger report, Kimmel knew successful carrier attacks had been used in Pacific Fleet exercises and war games and the British successfully destroyed the Italian Fleet at Taranto.<sup>162</sup> That information only stood out in hindsight after the Japanese attack as indicating a strong probability of a carrier attack on Hawaii. The information was evaluated differently at the time. Alexander P. De Seversky argued Mitchell was the most conspicuous of many military aviators "who have fought against heavy odds for their conviction that our country can and should have air supremacy."<sup>163</sup> De Seversky maintained many

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<sup>160</sup> Ibid, 20.

<sup>161</sup> Ramsey, 128.

<sup>162</sup> Borch, 57.

<sup>163</sup> Alexander P. De Seversky, *Victory Through Air Power*, (New York: Simon and Schuster, 1942), 221. De Seversky was Chief Russian Naval Pursuit Aviation in 1917. Through his military exploits he was recognized as the leading Russian ace of the Naval Air Force. By 1918, as a result of his technical contributions to the progress of aviation, he was selected to be a member of the Russian Naval Aviation Mission to the United States. By 1921 he was an adviser to General Mitchell and appointed

including Mitchell spoke out and had to endure the disapproval of their superiors, which resulted in either “exile on remote assignments” or retirement. De Seversky also asserted the court-martial of Mitchell was intended to be a warning to anyone who continued to promote air supremacy.<sup>164</sup> De Seversky’s assertions have some merit. Even though Mitchell demonstrated the ability of aircraft to sink battleships, it was ignored by fleet tactical doctrine. By 1932, aircraft were perceived as vulnerable to the firepower of enemy battleships. Thus, aircraft were only effective when used as part of larger fleet operations.<sup>165</sup>

Recognition of the British successful aerial destruction of the Italian Fleet at Taranto did not mean that the United States believed the Japanese had the ability or the equipment to attack the Pacific Fleet. In fact, civilian and military leaders including Knox, Stimson, Roosevelt, Marshall, Stark, Halsey, and Kimmel believed that the Japanese would be preoccupied in the Far East.<sup>166</sup> The underestimation of Japanese abilities was compounded by the tendency of United States civilian and military leaders to overestimate their own abilities and equipment. From the middle of 1939 to the beginning of 1942 Congress and the public were told that American aircraft were superior to any in the world.<sup>167</sup> De Seversky argued that, in January 1942, the Truman Committee concluded “that only 25 percent of [*sic*] American aircraft could be considered equal to the best foreign models...”<sup>168</sup> Hundreds of P-40 fighter aircraft sent to England during the Battle of Britain in 1940 were not utilized, possibly because the British lacked the pilots to fly them. However, De Seversky maintained that the RAF's American Eagle Squadron was still flying British Spitfires and Hurricanes in 1942 because the P-40 was

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consulting engineer to the War Department by the Secretary of War. In 1931, he founded what became Republic Aviation Corporation (353-354).

<sup>164</sup> Ibid.

<sup>165</sup> Trent Hone, “The Evolution of Fleet Tactical Doctrine in the U.S. Navy, 1922-1941,” *Journal of Military History* 67.4 (2003): 1140; Ramsey, 1132.

<sup>166</sup> See note 13, 6.

<sup>167</sup> De Seversky, 251-252

<sup>168</sup> Ibid, 240.

drastically inferior to British aircraft.<sup>169</sup> The British considered the P-40 unsuitable for combat primarily because it “lacked self-sealing fuel tanks and had neither armor nor bulletproof windscreens to protect their pilots.”<sup>170</sup> Thus, the most modern aircraft in the United States arsenal was not very good; it was simply available. Another shortcoming of American aircraft was the fact that they lacked range. This lack proved to be fortuitous in the days prior to the attack on Pearl Harbor.<sup>171</sup>

Despite the shortage of men and material that hampered the Pacific Fleet, the American people were told that if action was necessary the fleet would be ready. From the time Kimmel took command in February 1941, the press reported the positive progress of fleet preparations. Upon assuming command, Kimmel told his men that: “We will continue to so direct our efforts that we shall be fully prepared to accomplish any task which may be assigned to us.” After the ceremony Kimmel told the press: “Our Navy is the best and it will remain the best.”<sup>172</sup> Two weeks later, *New York Times* reporter Hanson W. Baldwin described Pearl Harbor as a fortress: “the very strength of Hawaii and its position... make it a strong point for defense of our West Coast..., which could endure the mightiest” direct assault.<sup>173</sup> On October 19, Luther Huston’s *New York Times* article described at length how the “Naval Nerve Center” in Washington communicated with ships at sea and bases ashore.<sup>174</sup> Houston conveyed the impression that the Navy Department worked like a well-oiled machine. Information and orders passed seamlessly between Washington and the three fleets: Atlantic, Pacific, and Asiatic. On November 16, 1941, *New York Times* columnist Bertram D. Hulen assured his readers that even

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<sup>169</sup> De Seversky, 239. The Royal Air Force America Eagle Squadron was a group of American volunteer pilots who fought for the British during the Battle of Britain.

<sup>170</sup> Robert Guttman, “Curtiss P-40 Warhawk: One of WW II’s Most Famous Fighters,” *Aviation History* November (2000) Reprint <http://www.historynet.com/curtiss-p-40-warhawk-one-of-ww-iis-most-famous-fighters.htm> (accessed September 5, 2009).

<sup>171</sup> In late November 1941, the aircraft carriers *Enterprise* and *Lexington* were ferrying planes to Wake and Midway Islands because they did not have the range to fly to the islands. Consequently, the carriers were not in port during the attack. Had the carriers been in port, they could have been severely damaged or destroyed.

<sup>172</sup> “Kimmel Takes Rule of All Navy Forces,” *New York Times* (New York, NY), February 2, 1941.

<sup>173</sup> Hanson W. Baldwin, “Our Gibraltar in The Pacific,” *New York Times* (New York, NY), February 16, 1941.

<sup>174</sup> Luther Houston, “Naval Nerve Center,” *New York Times* (New York, NY), October 19, 1941.

though “a naval struggle may be at hand..., the United States has a superior air force and a much larger fleet...” Conversely, he added, “it is believed in naval circles that the Japanese strength has deteriorated in consequence of years of war against China and that the Japanese Fleet is not as effective as it was five years ago, but this is not definitely known.” In American naval circles, he continued, the “belief is held that ship for ship the United States can sink anything Japan has. There is no worry over relative efficiency and strength.”<sup>175</sup> With news like that it was not surprising that the American people focused their attention on Europe and on the debates that raged in Congress between July 1940 and December 1941.

In late November 1941, the United States was still coming out of the Great Depression and preparing for war. Those preparations, wide ranging and slow, started in June 1940 when Roosevelt appointed two Republicans to defense posts in the cabinet: Henry L. Stimson as Secretary of War and Frank Knox as Secretary of the Navy. The purpose of these appointments was to reinforce national unity. In July, a bill signed by Roosevelt authorized a two-ocean navy. By August 1940, units of the National Guard were induced into federal service, but that was not enough manpower. So Congress adopted the first peacetime conscription in American history. It called for the registration of all men age 21-35 for one year's military service within the United States. The above measures did not just walk through Congress. The House and the Senate had to listen to the American people who were, at the time, divided into two major camps internationalists and isolationists. The internationalists held the best way to defend the United States was to aid Britain and her allies. The isolationists held that Roosevelt was drawing the United States into a needless war. That war, they believed, would be in Europe; the public did not look East toward Japan.<sup>176</sup>

By not considering the prevailing opinion of the public and civilian and military leadership, both Borch and the Dorn report provide a distorted understanding of the environment

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<sup>175</sup> Bertram D. Hulen, “Issues of War or Peace Now Raised with Japan,” *York Times* (New York, NY), November 16, 1941.

<sup>176</sup> Tindall, 1223.

in which important decisions were made. That distorted understanding led to an almost exclusive focus on Kimmel's errors in judgment. The belief that Japan did not have the ability or the equipment to attack Hawaii affected every decision civilian and military leaders made. It also affected what the American public was prepared to support resulting in the errors in judgment made by civilian and military leadership. Scrutiny of prevailing opinion leads to a fuller understanding of the background leading to Pearl Harbor.

### **United States Strategy**

In failing to examine United States' Germany first strategy, Borch overlooked one of the fundamental causes of the shortages that handicapped Kimmel. A second cause was the American people's reluctance fully to involve themselves in the war. The reluctance of the American people to enter the war hindered the ability of the military to prepare for the eventual conflict. Consequently Congress did not introduce the draft until 1940. A third cause was the Great Depression which slowed the production of much needed war materiel. While public reluctance and slow production were eventually overcome, the United States continued to make its primary focus the European theatre.

While the American public may not have been looking to the East, the military was and military leaders put what they saw into war plans. The Joint Army and Navy Basic War Plan-Rainbow No. 5 stated which enemy, in case of war, would be dealt with first:

Since Germany is the predominant member of the Axis Powers the Atlantic and European area is considered to be the decisive theatre. The principal United States Military effort will be exerted in that theatre and operations of United States forces in other theatres will be conducted in such a manner as to facilitate that effort.<sup>177</sup>

Thus most of the men, experienced and otherwise, and a majority of materiel were earmarked for the European theatre. However, the United States was having difficulty meeting that commitment. Stimson testified to the Army Pearl Harbor Board that all through 1941 the United States was engaged in a "desperate effort to reinforce and fortify all of our outposts, not only our

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<sup>177</sup> PHA, Part 18: 2910.

Pacific outposts but the outpost which, we had obtained in the Atlantic. Our production ... was very scanty.... There was a tremendous need beyond what we could give at that time.”<sup>178</sup> Not only was production meager, naval manpower was also meager. Richardson maintained that if an initial military expansion to 191,000 men had been authorized at the start of the war in Europe in 1939, subsequent expansions would have met the Navy's manpower needs in a timely fashion. Roosevelt, however, chose to expand personnel by only 145,000. Consequently every subsequent expansion was “too little and too late.”<sup>179</sup>

Many trained men were transferred from the Pacific Fleet and replaced by raw recruits. Those trained men were sent to the Atlantic Fleet, which was, by early September 1941, fully involved in the Battle of the Atlantic. On September 4, 1941, a German U-boat had fired two torpedoes at the American destroyer *Greer*. Roosevelt responded by issuing orders to the Atlantic Fleet to “shoot on sight” any German or Italian submarine found in “American defensive waters.”<sup>180</sup> By late October, a U-boat had sunk the destroyer *Reuben James*.<sup>181</sup>

The Atlantic Fleet's need for ships also adversely affected the Pacific Fleet. Kimmel made clear that, in April and May 1941, “one aircraft carrier, three battleships, four cruisers, and 18 destroyers were detached from the Pacific Fleet and transferred to the Atlantic.” Those ships represented one-fourth of the Pacific fleet's fighting ability. In an April 19, 1941, letter to Kimmel, Stark described those ships as the “first echelon of the Battle of the Atlantic.”<sup>182</sup> Kimmel maintained that an additional transfer of ships to the Atlantic Fleet was contemplated, but his opposition was so strenuous that the transfer was not executed.<sup>183</sup>

Pearl Harbor itself had deficiencies. It was never intended to be a fleet base; it was only the “refueling, revitalizing, and repair point for ships operating in the Hawaiian area. There was

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<sup>178</sup> PHA, Part 29: 2067. “Our production was not yet in full effect at all. It was very scanty. It was just beginning; and of course, there was a tremendous need beyond what we could give at that time.”

<sup>179</sup> Richardson, 197.

<sup>180</sup> Tindall, 1228.

<sup>181</sup> Ibid.

<sup>182</sup> PHA, Part 17: 2465-2466; Kimmel, 21.

<sup>183</sup> Kimmel, 22.

no other point where fuel could be obtained.”<sup>184</sup> In contrast, the Asiatic Fleet had several refueling, supply and repair facilities available to it such as Manila Bay and the British and Dutch East Indies. The harbor at Pearl had one entrance and, due to the “typography of the island and the narrowness of the channel,” capital ships had to move in and out in single file. Thus a “sortie of the fleet required at least three hours” and there was always the possibility that the channel would be blocked.<sup>185</sup> Given those deficiencies, it is understandable why Richardson argued so strenuously to base the Pacific Fleet on the West Coast.

In June 1941, Kimmel informed the Navy Department and Roosevelt, in person, of Pearl Harbor’s inadequacies:

The deficiencies of Pearl Harbor as a fleet base were well known in the Navy Department. In an interview with Mr. Roosevelt in June 1941, in Washington, I outlined the weaknesses and concluded with the remark that the only answer was to have the fleet at sea if the Japs ever attacked.<sup>186</sup>

Roosevelt was informed by two experienced commanders that the Pacific Fleet should not be based at Pearl Harbor. Nevertheless, due to Roosevelt’s firm conviction that the presence of the Pacific Fleet was having “a restraining influence on the actions of Japan” and the belief that Hawaii was not a target; he did not move the fleet to the West Coast.<sup>187</sup> Basing the fleet in Hawaii placed it closer to Japan, made it more difficult to supply, and did not restrain the Japanese in any way.

Kimmel’s need for intelligence was critical. None of the messages Kimmel received up to and including November 27, 1941 listed an attack on Hawaii as imminent or probable. Additionally, the Navy Department did not always communicate its orders clearly. There was always a possibility of a misunderstanding between it and commanders in the field. On November 27, 1941, Kimmel received the War Warning message, but it did not list Hawaii as a point of attack:

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<sup>184</sup> Kimmel, 12.

<sup>185</sup> Kimmel, 12-13.

<sup>186</sup> Kimmel, 79

<sup>187</sup> PHA, Part 1: 266; Prange, 553; Brownlow, 92.



This dispatch is to be considered a war warning. Negotiations with Japan looking toward stabilization of conditions in the Pacific \*have ceased\* and an aggressive move by Japan is expected within the next few days. The number and equipment of Japanese troops and the organization of naval task forces indicates an amphibious expedition against either the Philippines, Thai or Kra peninsula or possibly Borneo. Execute an appropriate defensive deployment preparatory to carrying out the tasks assigned in WPL46. Inform district and army authorities. A similar warning is being sent by War Department. Spenshaw inform British. Continental districts Guam Samoa directed take appropriate measures against sabotage.<sup>188</sup>

The message was drafted by Turner; the words 'war warning' were his. He intended them to convey the "Strong conviction on the part of the Department that war was surely coming. We expected all military services and outlined detachments to act in every way as if we were at war, except making attacks on the enemy, if encountered or initiating movements against enemy forces."<sup>189</sup> Turner did not understand how the words 'war warning' could have been misinterpreted in any way.<sup>190</sup> He intended the phrase 'execute an appropriate defensive deployment' to be construed as an order to put "carriers with their protective vessels... to sea and stand in readiness for war...."<sup>191</sup> Stark did not specifically include Hawaii with the Philippines and other likely areas of Japanese attack. He did not consider Hawaii a likely target. Yet, the possibility of an aerial attack could not entirely be eliminated. Thus Stark instructed the Pacific Fleet to make a defensive deployment. The directive was "intended to have them take up a position or to take action against surprise."<sup>192</sup> Stark assumed Kimmel would take up "a position as best he could with what he had for the defense of his fleet... and to guard against being caught unawares."<sup>193</sup> Clearly, the intentions of the Navy Department were not clearly conveyed in the War Warning message.

While Kimmel evaluated the message as meaning "war with Japan was closer than it had been...", his attention was drawn to the list of locations where the Japanese attack was

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<sup>188</sup> PHA, Part 14: 1406.

<sup>189</sup> PHA, Part 26: 280.

<sup>190</sup> PHA, Part 4: 2001.

<sup>191</sup> PHA, Part 26: 208.

<sup>192</sup> PHA, Part 5: 2149-2150.

<sup>193</sup> PHA, Part 5: 2152.

expected to occur.<sup>194</sup> Hawaii was not listed. Kimmel did not interpret 'war warning' in the way Turner had intended. Kimmel explained that the phrase "'war warning'... is a characterization of the specific information which the dispatch contained."<sup>195</sup> Thus, Kimmel concluded that the message warned of war in the Far East. The term 'appropriate defensive deployment' was unfamiliar to Kimmel. His interpretation of it was closer to Stark's meaning than Turner's. Kimmel decided it meant "something similar to the disposition he had made on October 16," which had been approved by Stark and was still in effect.<sup>196</sup> If the Navy Department had intended the Pacific Fleet to put to sea, both Stark and Turner should have used clear unmistakable language in the War Warning message to insure against misinterpretation. Kimmel then would have sent the fleet to sea. Additionally, Kimmel had received two other messages on November 27, 1941, one proposed that he send twenty-five Army pursuit planes by aircraft carrier to Midway and another twenty-five to the Wake island:

In order to keep the planes of the Second Marine Aircraft Wing available for expeditionary use OPNAV has requested and Army has agreed to station 25 Army pursuit planes at Midway and a similar number at Wake provided you consider this feasible and desirable. It will be necessary for you to transport these planes and ground crews from Oahu to these stations on an aircraft carrier. Planes will be flown off at destination....<sup>197</sup>

Kimmel informed Stark that the exchange was not practical; Army pilots were not able to operate more than fifteen miles from land and their planes were unable to land on aircraft carriers. Thus, due to their limited range once the planes landed on the islands they would be effectively marooned there. Additionally, their fifteen mile operational limit restricted their usefulness in the islands' defense.<sup>198</sup>

If such an exchange had been made, it would have reduced the Army's pursuit strength on Oahu by approximately half. Nevertheless, Kimmel maintained that the fact that the "War and Navy Departments proposed their transfer from Hawaii indicated to [sic] him that...

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<sup>194</sup> PHA, Part 32: 234.

<sup>195</sup> Kimmel, 45.

<sup>196</sup> PHA, Part 32: 236.

<sup>197</sup> PHA, Part 17: 2479. OPNAV is an acronym for Office of Naval Operations.

<sup>198</sup> Kimmel, 47.

Washington did not consider an air raid on Pearl Harbor either imminent or probable.”<sup>199</sup> The other message proposed reinforcing the Marine Battalions on Midway and Wake with Army units. At about the same time, General Short, Army commander in Hawaii, received a message from the War Department that proposed Army troops take over the defense of both islands from the Marines. However, the Army had no guns to equip its troops and Kimmel did not have sufficient supplies to reequip or rearm the Marines if their equipment was left for the Army.<sup>200</sup> Kimmel recommended that the Marines be left in place.

## Conclusion

This analysis has placed Admiral Husband E. Kimmel’s actions before December 7, 1941 and his actions in the aftermath of Pearl Harbor into context. Without the distortion of hindsight, his decisions based on available information and resources were reasonable. Kimmel’s only error in judgment was underestimating Japan’s capability to conduct carrier operations. That error was shared by others in the military, President Roosevelt, and Congress. Although Kimmel’s treatment in the immediate aftermath of Pearl Harbor was unfair, it was perfectly legal and Kimmel was not unjustly punished by being relieved of command. Additionally, the Hart Inquiry, Naval Court of Inquiry, Hewitt Inquiry and the Joint Congressional Committee Investigation to varying degrees corrected the injustice of the Roberts Commission charge of dereliction of duty. Ultimately, therefore, Kimmel was not denied due process.

Nevertheless, the conclusions of all of the investigations lacked the force of a court-martial verdict. By voluntarily waiving the statute of limitations, Kimmel gave away any leverage he had to force the government to try him under the statute. Thus, he participated in denying himself such a verdict. It was not until August 1945 that the Judge Advocate General of the Navy Thomas Gatch concluded there was insufficient evidence to sustain a conviction on the charges of Neglect of Duty and Culpable Inefficiency in Performance of Duty. That same month,

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<sup>199</sup> Ibid, 48.

<sup>200</sup> PHA, Part 17: 2479; Kimmel, 46.

Secretary of the Navy James Forrestal offered Kimmel trial by general court-martial. Kimmel never accepted. Thus, Kimmel chose not to be court-martialed.

Examination of prevailing opinion and United States strategy revealed that the United States considered Germany a greater threat. Thus with the nation's attention focused on Europe, the Pacific Fleet was denied the necessary men and materiel to carry out its mission. Recognizing that the Germany first strategy caused the shortages with which Kimmel had to contend in no way brings into question the wisdom of that strategy. It simply recognizes the cost of that choice. Prevailing opinion illustrated the American people's reluctance fully to involve themselves in the war. It also revealed an overestimation of American military capability and a misunderstanding of the appropriate use of air power. Those factors were reflected in Congress's failure to appropriate sufficient funds or provide, in a timely manner, the manpower necessary for the military to be sufficiently prepared at the beginning of the conflict.

Setting aside the historiography that maintained the Japanese were willing and able to attack the Pacific Fleet at Pearl Harbor and analyzing prevailing opinion about Japan's abilities as well as United States strategy demonstrated Kimmel's errors in judgment were not unique. They were shared by the civilian and military leadership. Additionally, Kimmel's decisions before December 7, 1941 were reasonable and he did the best he could with the resources available to him. Kimmel was not derelict in the performance of his duty.

## Appendix A: The Nine Pearl Harbor Investigations

Knox Investigation

December 9, 1941–December 14, 1941

Roberts Commission

December 18, 1941–January 23, 1942

Hart Inquiry (Navy)

February 12, 1944–June 15, 1944

Army Pearl Harbor Board

July 20, 1944–October 20, 1944

Naval Court of Inquiry

July 24, 1944–October 19, 1944

Hewitt Inquiry (Navy)

May 15, 1945–July 11, 1945

Clarke Investigation (Army)

August 4, 1944–September 20, 1944

Clausen Investigation (Army)

January 24, 1945–September 12, 1945

Joint Congressional Committee Investigation

November 15, 1945–May 23, 1946

## Appendix B: List of Major Personnel

<b>Bellinger, Rear Admiral. Patrick N. L.</b>	<b>King, Admiral Ernest J.</b>	<b>Ramsey, Lieutenant Commander Logan C.</b>	<b>Stimson, Henry L.</b>
Commander Patrol Wing two; co-author Martin-Bellinger Report	Chief of Naval Operations, March 1942-December 1945	Operations officer under Bellinger	Secretary of War
<b>Bloch, Rear Admiral. Claude C.</b>	<b>Kirk, Captain. Alan G.</b>	<b>Richardson, Admiral. James O.</b>	<b>Theobald, Rear Admiral. Robert A</b>
Commandant, Fourteenth Naval District	Director, Office of Naval Intelligence, March 1941-October 1941	Commander-in-Chief Pacific Fleet 1940	Counsel for Kimmel, Roberts Commission
<b>Forrestal, James V.</b>	<b>Knox, Frank</b>	<b>Roberts, Owen J.</b>	<b>Turner, Rear Admiral. Richmond Kelly</b>
Secretary of the Navy, May 1944-September 1947	Secretary of the Navy	Associate Justice, Supreme Court; Chairman, Roberts Commission	Chief, War Plans Division, Navy Department
<b>Gatch, Rear Admiral. Thomas L.</b>	<b>Marshall, General. George C.</b>	<b>Roosevelt, Franklin D.</b>	<b>Wilkinson, Rear Admiral Theodore S.</b>
Judge Advocate General Navy	Chief of Staff, Army	President of the United States	Director of Office of naval Intelligence, October 1941-July 1942
<b>Halsey, Vice Admiral. William F.</b>	<b>Martin, Major General. Frederick L.</b>	<b>Rugg, Charles B.</b>	
Commander, Aircraft, Battle Force	Commanding General Hawaiian Air force; co-author Martin-Bellinger Report	Attorney for Kimmel	
<b>Hart, Admiral. Thomas C.</b>	<b>McCullum, Commander Arthur H.</b>	<b>Safford, Commander. Laurance F.</b>	
Commander-in-Chief Asiatic Fleet; conducted inquiry	Chief, Far East Section, Office of Naval Intelligence	Chief, Security Section, Communications Division, Navy Department	
<b>Hewitt, Vice Admiral H. Kent</b>	<b>McCoy, Major General. Frank B.</b>	<b>Short, Lieutenant General. Walter C.</b>	
Conducted inquiry	Member, Roberts Commission	Commanding General Hawaiian Department	
<b>Kimmel, Admiral Husband E.</b>	<b>Noyes, Rear Admiral. Leigh</b>	<b>Stark, Admiral. Harold R.</b>	
Commander-in-Chief Pacific Fleet	Chief, Communications Division, Navy Department	Chief of Naval Operations August 1939-March 1942	

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