

DRAFT

21 May 1945

From: Rear Admiral Husband E. Kimmel, USN (Ret.)

To: The Secretary of the Navy, Navy Department,
Washington 25, D. C.

Reference: (a) My letter of 6 February 1945
(b) Secretary of the Navy's letter of 13 February 1945
(c) My letter of 8 May 1945
(d) Secretary of the Navy's letter of 14 May 1945

1. In your release to the press of 1 December 1944 you state, "The Secretary, in his findings upon the evidence before the court of inquiry and all the other proceedings in the matter to date, has found that there were errors of judgment on the part of certain officers in the naval service, both at Pearl Harbor and at Washington. The Secretary is not satisfied that the investigation has gone to the point of exhaustion of all possible evidence. Accordingly, he has decided that his own investigation should be further continued until the testimony of every witness in possession of material facts can be obtained and all possible evidence exhausted. Some of the testimony will be much delayed because certain witnesses who are actively engaged in combat against the enemy are not available and will not be available within the predictable future. The present decision of the Secretary will be reviewed when the investigation has been finally completed in the light of evidence then at hand."

2. At your direction and in accordance with the precept signed by you designating the scope of the inquiry, Admiral Hewitt is presently conducting an investigation of the Japanese attack on Pearl Harbor in order that you may review your decision " . . . that the evidence now available does not warrant and will not support the trial by general court martial of any person or persons in the naval service". In my letter to

you of 6 February 1945 I requested that I be permitted to examine the record of the Naval Court of Inquiry, including the finding of fact, opinions and recommendations. In your letter of 13 February you denied my request *and* informed me that "the record of the Court of Inquiry in question has not been completed". In my letter of 8 May 1945 I requested that I be accorded the rights of an interested party before Admiral Hewitt's investigation. Your letter of 14 May 1945 denied this request. In your letter of 13 February 1945 you state that "Courts of inquiry and other investigative bodies are convened for the purpose of informing the convening authority or higher authority of the facts attending the matter inquired into." In your letter of 14 May 1945 you quote from Naval Courts and Boards as follows:

"Courts of inquiry and investigations, as the names signify, are primarily fact-finding bodies, and, unless specifically directed by the convening authority in the precept to express opinions or to make recommendations, will confine themselves to findings of fact. The proceedings of these bodies are in no sense a trial of an issue or of an accused person; they perform no real judicial function; they are convened solely for the purpose of informing the convening authority in a preliminary way as to the facts involved in the inquiry, and when directed, to aid him with opinions and recommendations; their conclusions are merely advisory."

Your attention is invited to the rights of an interested party, set forth in Naval Courts and Boards as follows:

3. The findings of the investigation made by Mr. Frank Knox, Secretary of the Navy, in December 1941, fixing the blame for results of the Japanese attack on Pearl Harbor, were promptly published to the world. The findings of the Roberts Commission charging me with dereliction of duty were published to the world in January of 1942. When I was removed from active duty in March 1942 the Secretary of the Navy announced to the press that I would be brought to trial by general court martial for dereliction of duty.

4. I have made repeated attempts to have this whole matter aired publicly by a duly constituted court. This right has been denied to me on the plea that to do so would disclose information which would affect the war effort.

5. Failing the means which I have requested to clear my record I am reduced to the findings and opinions of the Court of Inquiry. The Secretary of the Navy has refused to publish either the proceedings or the findings of the Naval Court of Inquiry which investigated this matter. In your statement, you specified that the court found no grounds for the court martial of any individual in the naval service, but added that the investigation was to be continued. I am concerned with any investigation of the Japanese attack on Pearl Harbor as evidence which I am not given an opportunity to refute may affect my record and reputation. My record and reputation have already been torn to shreds by the action of the Roberts Commission and the Navy Department. Therefore, I must continue to be vitally concerned in this matter.

3. which required the attendance of the same witnesses as a general court martial.

to the press of 1 December 1944

6. The Roberts Commission denied me my most elementary rights. My request for counsel was refused and I was repeatedly informed by Mr. Roberts that I was not on trial. I was not permitted to be present at the examination of witnesses; I was not permitted to introduce evidence; I was not permitted to cross-examine witnesses; and I did not know for two years what testimony had been taken by the Roberts Commission. On the plea that I was not on trial, the Roberts Commission denied me my elementary rights. Having denied me these rights, this Commission tried and condemned me and I have suffered irreparable damage from this condemnation.

Testimony recorded by

7. I have read ~~the report of~~ the Roberts Commission which was supplied to me by the Secretary of the Navy and I was present during the proceedings of Admiral Murfin's Court of Inquiry at which time I was allowed counsel, I introduced witnesses, I cross-examined witnesses and I was permitted to introduce evidence. I have not been permitted to see the findings of the Naval Court headed by Admiral Murfin. No part of these proceedings or findings have been published. I am confident, however, that with the evidence presented the findings of this Court cleared me of all charges of dereliction of duty. ¶ The Secretary has stated that no firm decisions can be made until further evidence has been had in this case. Three and one-half years have elapsed since the event. Four formal investigations have been conducted, not to mention the reports of the Commander-in-Chief of the Pacific Fleet, the reports of the Commanding General of the Hawaiian Department, and the report of the Army Board of Investigation. ¶ I am now informed that the Secretary wishes to expedite Admiral Hewitt's investigation and for that reason it was deemed inexpedient to accord interested parties the right to be present during the investigation. Seven months have elapsed between the date the Secretary

received the report of Admiral Murfin's Court and the commencement of the investigation by Admiral Hewitt.

8. In March 1942 the Secretary of the Navy announced to the press that I would be brought to trial by general court martial. On 27 August 1943 the Secretary informed me that the public interest and safety would now permit my trial but necessary witnesses could not be assembled without adversely affecting the war effort. In this same communication (27 August 1943) the Secretary assured me that the trial will be had at the earliest practicable date. Admiral Hewitt is presumably gathering evidence upon which the Secretary can make a firm decision. I have not seen a copy of the precept nor received any official notification of the investigation other than the reply to my letter of 8 May 1945. I hereby protest the action of the Secretary in denying me the right of an interested party in the investigation presently being conducted by Admiral Hewitt.

9. The officials of the Navy Department know that the primary, if not the entire blame for what happened at Pearl Harbor rests upon personnel that were in Washington at the time of the attack. This is clearly set forth in the evidence presented to Admiral Murfin's Court of Inquiry.

H. E. KIMMEL