

STATEMENT OF REAR ADMIRAL MERLIN STARING

In June of 1967 I was assigned as the senior Navy legal officer in London at the headquarters of Admiral John S. McCain, Jr., who was then the Commander-in-Chief, U. S. Naval Forces, Europe. In that capacity, Admiral McCain was in command of our naval forces in the Mediterranean.

The U. S. Navy Court of Inquiry into the 8 June attack on the USS LIBERTY was convened at our London headquarters at the direction of Admiral McCain. A Navy Court of Inquiry is a formal fact-finding body convened to investigate an incident involving, for example, substantial loss of life, or possible significant international or other legal consequences. It is an administrative, not a judicial, body, and its report is purely advisory.

Rear Admiral Isaac Kidd was appointed by Admiral McCain to be the president of the Court, with Captains Bernard Lantieri and Bert Atkinson as the other members. Captain Ward Boston, a Navy legal officer, was assigned as counsel to the Court.

Admiral Kidd and the two members of his Court, with their legal officer, Ward Boston, immediately traveled to the Mediterranean where they boarded the LIBERTY at sea and commenced collecting evidence for their investigation.

The clerical production of the written transcript of the proceedings and the report of the Court of Inquiry containing its stated conclusion that the attack was accidental was largely accomplished first at Malta, where the heavily damaged LIBERTY was initially docked, and then at our London headquarters, under the direction and supervision of Admiral Kidd and Captain Boston, in the days during and immediately following their on-scene investigation.

As Force Legal Officer for Admiral McCain, it would normally have been my duty to review the record of the investigation by the Court of Inquiry and to prepare a recommended action on that record for Admiral McCain's consideration and decision, leading ultimately to his official endorsement and transmission of the record to the Department of the Navy in Washington. Consistent with that anticipated procedure, Captain Boston appeared in my office in midafternoon of the day that he and Admiral Kidd arrived in London from Malta, handed me the record of some 600 pages, and said that Admiral McCain had asked him to bring it to me for my review.

I immediately swept all other work aside and began a comprehensive review of that file, working steadily at it from the afternoon until about 3:00 AM. At that point I took a brief break for sleep, then resumed my review at about 6:00 AM the following morning. I was still so engaged when Captain Boston again appeared in my office at about 10:00 AM and asked how I was doing, and when I thought I would complete my review. I told him that I was at that point only about 1/3 of

the way through the record and that I was having serious problems, so far, in finding evidence in the record to support some of the Court's conclusions or findings of fact. One of the items for which I had so far been unable to find supporting evidence in the record was the Court's very first conclusion that "available evidence combines to indicate the attack on LIBERTY on 8 June was, in fact, a case of mistaken identity." I also told Captain Boston that I could not yet estimate a time for the completion of my review, but that I was working full time on it and would continue to do so.

Captain Boston thereupon left my office, then reappeared about 20 minutes later and said that Admiral McCain had sent him up to get the Court's record from me and bring it to him in his office. I accordingly turned the record back over to Captain Boston, and he left my office with it. I was never, either at that point or later, asked for any of my comments or conclusions based upon the work that I had done to that point. Later that same day I learned that Admiral Kidd had