

## EXHIBIT NO. 170

(NOTE.—Documents contained in this Exhibit were obtained from files regarding Maj. Gen. Walter C. Short in the War Dept. and are supplemental to those documents appearing in Joint Committee Exhibit No. 140)

## TABLE OF CONTENTS

## SECTION A. DOCUMENTS RE RELIEF OF GEN. SHORT FROM COMMAND AND HIS SUBSEQUENT RETIREMENT (PAGE 3794)

Dec. 18, 1941	Message to War Dept. reflecting the relief of Gen. Short by Gen. Emmons as commander of Hawaiian Dept.
Jan. 12, 1942	Message reporting departure of Gen. Short and others from Hawaii for mainland.
Jan. 12, 1942	Message reporting arrival of Gen. Short and others at San Francisco.
Jan. 13, 1942	Telegraphic orders to Gen. Short to proceed to Oklahoma City, Oklahoma for temporary duty. Handwritten memo by H. L. S. (Sec'y Stimson) re Gen. Short case. Handwritten note (Gen. Marshall) on wording of the acceptance of Gen. Short's retirement.
Feb. 17, 1942	Memo by Gen. Hilldring for TAG re action in detail required re Gen. Short's retirement.
Feb. 17, 1942	Memo for file by Col. Ostrander re actions taken with reference to handling Gen. Short's retirement.
Feb. 17, 1942	Acceptance of Gen. Short's retirement by ar Dept.
Feb. 17, 1942	Letter to Gen. Short accepting his retirement effective 2-28-42.
Feb. 18, 1942	Receipt from Gen. Short of retirement papers.
Feb. 19, 1942	Notes from Col. Ostrander and others re handling of press release on Gen. Short's retirement.
Feb. 14, 1942	Copy of letter from Sec'y Stimson to Sec'y Knox suggesting wording of saving clause in acceptance of retirement of Gen. Short and Adm. Kimmel.
Feb. 25, 1942	Blind memo stating President intends to ask for a courts-martial of Gen. Short and Admiral Kimmel on question of dereliction of duty. Article of War 97.
Feb. 26, 1942	Memo for Chiefs of Staff from JAG division re proposed courts-martial of Gen. Short.
Feb. 26, 1942	Final draft of press release on Gen. Short's retirement, as approved by President.
Feb. 27, 1942	Memo from Gen. Marshall for Sec'y of War relating that approved news release was read to Gen. Short over the phone before release.
Feb. 28, 1942	Press release on Gen. Short's retirement.
Feb. 28, 1942	Wire service bulletin on announcement of retirement of Gen. Short and Admiral Kimmel.
Feb. 28, 1942	Navy Dept. Communique #47 announcing retirement of Admiral Kimmel.
Mar. 9, 1941	Letter from Gen. Short to TAG asking retirement be changed to read "for physical disability in line of duty."
Mar. 17, 1942	Letter from TAG to Gen. Short stating his request of Mar. 9, 1941 for change in retirement was not possible.

## SECTION B. DOCUMENTS RELATING TO WAIVER OF STATUTE OF LIMITATIONS (PAGE 3818)

Sept. 10, 1943	Handwritten memo of H. L. S. (Sec'y Stimson) suggesting War Dept. get waiver from Gen. Short.
Sept. 10, 1943	Memo from JAG to Sec'y of War re obtaining waiver as had been done by Navy Dept. with Adm. Kimmel. Memo from Lt. Col. Wm. J. Hughes, Jr. to JAG re validity of agreement in advance to waiver statute of limitations.

Sept. 7, 1943 Letter from Adm. Kimmel to Sec'y of Navy and waiver of statute of limitations.  
Draft of letter from Sec'y of War to Gen. Short asking for waiver and proposed waiver.

Sept. 25, 1943 Memo from Gen. Green to JAG transmitting attached waiver dates Sept. 20, 1943 from Gen. Short.

Sept. 22, 1943 Telegram from Gen. Green to JAG re completion of his mission.

Sept. 28, 1943 Memo from Gen. Green for JAG re trip to see Gen. Short and obtain waiver.

Sept. 27, 1943 Memo from JAG to Sec'y of War suggesting a public announcement of the waiver.

## SECTION C. DOCUMENTS RELATING TO THE ROBERTS COMMISSION RECORDS (PAGE 3830)

Mar. 2, 1942 Memo from Gen. Hildring to JAG transmitting Roberts Commission entire file to JAG for use in connection with preparation of charges against Gen. Short.

Mar. 4, 1942 Memo from Lt. Col. J. L. Harbough, Jr. to Col. F. Granville Munson for use in preparing charges against Gen. Short, transmitting the entire Roberts Commission file.  
Memo from Col. R. N. Young to JAG asking that entire Roberts Commission file be forwarded to the Executive Officer, Operations Division, War Dept. General Staff.

Nov. 23, 1942 Memo from Col. J. M. Weir to Executive Officer, OPD, WDGS, transmitting the entire record of the Roberts Commission.

June 26, 1944 Memo from Gen. Green to Gen. Weir stating Gen. Short had requested he be furnished complete copy of Roberts Commission proceedings.

June 23, 1944 Letter from Gen. Short to TAG asking he be furnished complete copy of proceedings of Roberts Commission.

June 30, 1944 Memo from Gen. White to Chief of Staff suggesting that Gen. Short's request for a copy of Roberts Commission proceedings be put to the President for decision.

July 4, 1944 Memo from Sec'y of War for President asking for decision on furnishing Gen. Short copy of Roberts Commission proceedings bearing OK of the President.

July 25, 1944 Informal action record ordering that Gen. Short be furnished a photostatic copy of Roberts Commission proceedings.

July 29, 1944 Memo from Col. West to TAG asking that an extra photostatic copy of Roberts Commission proceedings be prepared for use by the Army Pearl Harbor Board.

Aug. 9, 1944 Receipt from Gen. Short to TAG for photostatic copy of Roberts Commission, transcrip, less Exhibits.

## SECTION D. DOCUMENTS RELATING TO COUNSEL FOR GEN. SHORT (PAGE 3847)

Feb. 27, 1944 Message from Col. Greer to JAG re appointment as counsel for Gen. Short.

Mar. 1, 1944 Letter from Col. Greer to JAG re defense of Gen. Short.

Mar. 10, 1944 Letter from JAG to Col. Greer re taking of testimony in Gen. Short's case.

Mar. 4, 1944 Transcription of conversation between Gen. Weir and Col. Springer re counsel for Gen. Short.

Feb. 29, 1944 Letter from Gen. Short to TAG asking that Col. A. J. Greer be detailed to act as his counsel in any courts-martial.

Mar. 22, 1944 Letter from Gen. Short to JAG requesting that he be allowed to enter agreement with War Dept. safeguarding his rights if he participated in a program of recording testimony of certain witnesses.

July 24, 1944 Letter from Gen. Short to TAG requesting that Gen. T. H. Green be detailed as his military counsel.



- July 31, 1944 JAG memo to TAG approving assignment of Gen. Green as counsel to Short.
- Aug. 15, 1944 TAG memo appointing of Gen. Green as counsel for Gen. Short.

SECTION E. DOCUMENTS RELATING TO ARMY PEARL HARBOR BOARD AND PRESERVATION OF TESTIMONY PRIOR TO ITS ORGANIZATION (PAGE 3858)

- Feb. 25, 1944 Report of Navy Sec'y Press Conference when it was announced that Admiral T. C. Hart had been assigned to collect testimony from Navy officers concerning the Pearl Harbor attack, and that courts-martial would be postponed until after "war situation had subsided."
- Mar. 2, 1944 Extracts from Sec'y of War's Press Conference where it was stated that War Dept. was cooperating with the Navy Dept. in assembling evidence in the cases of Gen. Short and Adm. Kimmel.
- July 18, 1944 Letter from Gen. Short to TAG requesting detail of two officers as observers for him at all hearings of the Army Pearl Harbor Board.
- July 21, 1944 Memo from Gen. White to Gen. Grunert transmitting request of Gen. Short for officer observers at APHB hearings.
- July 26, 1944 Memo from Gen. Grunert to Ass't Chief of Staff, G-1, War Dept. recommending that Gen. Short's request for officer observers at APHB hearings be denied.
- Aug. 3, 1944 Letter from TAG to Gen. Short denying his request for appointment of two officer observers at APHB hearings.
- Aug. 2, 1944 Message from TAG to Gen. Short advising him APHB contemplates calling him as witness and asks him for suggested list witnesses which he thinks have knowledge of facts bearing upon the investigation.
- Aug. 4, 1944 Message from Gen. Short to TAG saying list of prospective witnesses will be furnished after consultation with his counsel.
- Aug. 14, 1944 Action sheet memo, 1st endorsement by Gen. Grunert referring to request of Gen. Short that he be furnished a copy of APHB testimony before board, etc. Recommends he be furnished copy of his testimony before Board, that he be denied request for copy of all other testimony taken before the Board and that he be allowed to have access to Board's Exhibits at convenience of Board, the Exhibits to remain with the Board.  
2nd endorsement to above by JAG recommended allowing copy of testimony of APHB be furnished Gen. Short, less Exhibits.
- Aug. 20, 1944 Memo for record, Ass't Chief of Staff, G-1, approves request of Gen. Short for copy of APHB proceedings as set forth in 2nd endorsement above.
- Aug. 11, 1944 Letter from Gen. Short to TAG requesting he be furnished a copy of transcript of testimony before APHB and access to its Exhibits, and TAG's approval as attached.
- Aug. 31, 1944 Letter from Gen. Short to TAG requesting he be furnished copies of synopses of testimony before APHB.
- Sept. 20, 1944 Memo by Gen. Grunert recommending disapproval of Gen. Short's request for synopses of testimony taken before APHB.
- Sept. 28, 1944 Memo from Col. R. E. Kunkel to TAG recommending disapproval of Gen. Short's request for synopses of testimony taken before APHB.
- Oct. 1, 1944 Memo of approval by Ass't Chief of Staff, G-1, of the recommendation of TAG above denying Gen. Short's request for synopses of testimony taken before APHB, and attached TAG letter to Gen. Short so advising him.
- Oct. 3, 1944 Memo from Gen. McNarney to Gen. Grunert transmitting letter from Gen. Short to Sec'y of War and reply thereto by the Sec'y re testimony before APHB.



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- Sept. 29, 1944 Letter from Gen. Short to Sec'y of War referring to fact that APHB has apparently not been furnished full details re intercepted Jap messages, and asks that all such information be made available to the Board.
- Oct. 2, 1944 Reply to Gen. Short's letter of Sept. 29, 1944 by Sec'y of War assuring him the APHB was exploring all sources of evidence bearing on the Pearl Harbor attack.
- Aug. 24, 1944 Memo by Col. West for Staff and members of APHB re handling of Board's transcript of testimony.
- Sept. 2, 1944 Letter from Col. Wm. J. Hughes, Jr. to Col. Chas. W. West, Recorder, APHB re copy of Major Clausen's memo of July 10, 1944 to Mr. Amberg, which he did not think should be furnished to Gen. Bragdon, as counsel for Col. Wyman.
- Sept. 2, 1944 Memo from Col. Hughes to Maj. B. R. Powell re order creating APHB and referring matter of Col. Theodore Wyman, Jr., to Board, with attached copy of order of Sec'y of War dated July 8, 1944 creating the APHB, and memo of acting Sec'y of War dated July 12, 1944 referring Wyman matter to Board.
- Sept. 4, 1944 List of personnel of APHB making trip to Hawaii in connection with its investigation.
- Sept. 13, 1944 Letter from Col. West to Col. Hughes re APHB transcripts.
- Sept. 21, 1944 Memo from JAG to Gen. Weir stating that on recommendation of Gen. McNarney, the APHB be advised that Col. Hughes of the JAG office be allowed to familiarize himself with APHB proceedings to facilitate review of APHB Report by the JAG when report submitted to him for opinion.
- Oct. 23, 1944 War Dept. Press Release reporting APHB report had been received by the Sec'y of War, who had referred it to the JAG for consideration.
- Oct. 26, 1944 Excerpt of Press Conference of Sec'y of War in which the Sec'y stated the situation had not changed re APHB and refused any comment on the report.
- Nov. 30, 1944 Semi final draft of statement for Sec'y of War on APHB report indicating partial approval and disapproval of criticism by Board, and that further investigation would be conducted under his direction. Handwritten JAG note concludes "errors of judgment only". . . . "Reason: forestall demand for Ct. M."
- Aug. 12, 1944 Message from TAG to CG, 9th Service Command requesting he facilitate work of APHB which would hold hearings at San Francisco.
- Aug. 29, 1944 Message from Gen. Somervell to Gen. Richardson re trip of Gen. Bragdon to Honolulu as counsel for Col. Wyman, and preparation of records for his examination.
- Dec. 6, 1944 Memo from JAG to Sec'y of War re effect of inactivation or discharge of APHB military personnel upon amenability to prosecution for unauthorized disclosure of classified information.
- Memo from Harvey H. Bundy to Col. Hughes re combination of safe containing documents to be examined by Lt. Col. Henry C. Clausen."

F. CONGRESSIONAL CORRESPONDENCE WITH WAR DEPT. AND DOCUMENTS RELATING TO LEGISLATION EXTENDING STATUTE OF LIMITATIONS (PAGE 3903)

- Feb. 14, 1942 Letter from Sen. Hayden transmitting copy of letter of constituent and War Dept. reply of Feb. 19, 1942.
- Sept. 11, 1943 Letter from Sen. Brooks and War Dept. replies of Sept. 16, 1943 and Oct. 8, 1943, and JAG memo of Oct. 4, 1943 saying delay in answering letter, and proposed draft of letter to Sen. Brooks.
- Nov. 22, 1943 Letter from Sen. E. C. Johnson to JAG re Gen. Short's case and reply dated Nov. 25, 1943 stating waiver of statute of limitations had been obtained.



- May 18, 1944 Reply of Sec'y of War to letter from Congressman Mansfield dated May 10, 1944 stating he does not consider a trial of Gen. Short must be held during war time and waiver obtained would permit trial later.
- May 25, 1944 Memo from JAG for Legislative and Liaison Division and draft of letter to Congressman Celler in reply to his letter of May 18, 1944 re H. J. Res. 283 to extend statute of limitations.
- June 3, 1944 Letter from Sen. Ferguson to JAG re question of "manifest impediment" stated in Article of War 39, and reply dated June 1, 1944 enclosing memo re "meaning of 'Manifest Impediment' in Article of War 39" prepared by Col. Hughes.
- June 1, 1944 Letter from JAG of Army to JAG of Navy transmitting copy of his letter to Sen. Ferguson of same date and copy of memo re "Manifest Impediment."
- Dec. 9, 1943 Letter from Attorney General to Director of Budget Bureau re H. J. Res. 199 stating he had no objection to it.
- Dec. 13, 1943 Letter from Attorney General to Director of Budget Bureau re H. J. Res. 199 stating that he does not think the resolution will accomplish the purpose its sponsors have in mind, but he has no objection to it.
- June 9, 1944 Letter from Attorney General to Director of Budget Bureau re S. J. Res. 133 stating he has no objection to it.
- June 6, 1945 Letter from Sec'y of War to Director of Budget Bureau re S. J. Res. 66 stating the Department regarded the legislation would be ineffective to extend the statute of limitations.
- June 8, 1945 Transcript of conversation between JAG and Ass't Solicitor General Hugh Cox re meaning of legislation directing Sec'y of War and Sec'y of Navy to commence investigations of the attack on Pearl Harbor.
- June 15, 1944 Transcript of Conversation between JAG and Gen. McNarney re legislation directing Sec'y of War to investigate attack on Pearl Harbor and for similar action by Navy.
- June 15, 1944 Memo from J.A.G. of Navy to Sec'y of Navy re legislation directing investigation of Pearl Harbor attack.
- June 15, 1944 Memo from JAG of Navy to Sec'y of Navy re legislation relating to Pearl Harbor Prosecutions.  
Draft of statement for Sec'y of Navy re Joint Resolution regarding Pearl Harbor catastrophe.
- June 15, 1944 Memo from C. H. Bull, Navy, to Gen. Weir re Kimmel-Short courts-martial suggesting it be decided by the President.
- June 17, 1944 Memo from JAG of Navy to Sec'y of Navy re S. J. Res. 133 recommending a Navy Court of Inquiry.
- June 24, 1944 Memo from JAG to Sec'y of War re Public Law 339, 78th Cong. directing investigation of Pearl Harbor attack by Secretaries of War and Navy, recommending a board of officers be appointed to conduct the investigation for the Sec'y of War.
- June 30, 1944 Memo from Adm. Gatch to Gen. Cramer re copies of Roberts Commission testimony.
- Dec. 30, 1943 Memo from JAG of Navy to Sec'y of Navy re H. J. Res. 199 saying it could be ignored.  
Memo from Lt. Col. Hughes for Gen. Cramer re legal aspects of extending statute of limitations for courts-martial proceedings.

Section A

S. C. Form No. 11

Signal Corps, United States Army

Received at

War Department Message Center,  
Room 3441, Munitions Building,  
Washington, D. C.

U. S. DEPARTMENT OF THE ARMY  
RECEIVED

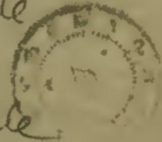
1941 DEC 1 2:57

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100-110-311-110

DEC 1 8 1941

*Executives office & Col. Whipple  
To note - when to  
Rec Sec - note - Index & file*



*Hagerlund*

*FD*

*Y*

*12/18/41*

*Finley 1509*

RECEIVED OFFICERS DIVISION

025/20241-298



CL  
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130<sup>2</sup>/JAN 12

RADIOGRAM

10-5

Received at the War Department Message Center  
Room 3441 Munitions Bldg., Washington, D. C.

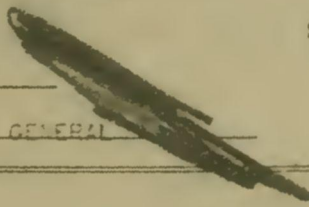
PRIORITY

JAN 12

9:10P M.

From LT SHAFTER

To ADJUTANT GENERAL



Copies furnished as noted:

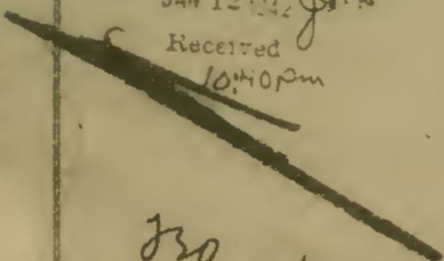
NO. 1649--JANUARY 12

MAJOR GENERALS WALTER C SHORT COMMA ACCOMPANIED  
BY AIDE CAPTAIN LOUIS W TRUMAN INF COMMA AND  
/ FREDRICK L MARTIN LEFT ON CLIPPER ELEVENTH  
JANUARY FOR MAINLAND ASSIGNMENT STOP CAPT  
TRUMAN IS PROCEEDING BY AIR ON TEMPORARY DUTY  
WITH ROBERTS COMMISSION SEMICOLON UPON COM-  
PLETION THIS DUTY HAS BEEN INSTRUCTED REPORT  
YOUR OFFICE FOR TRAVEL TO STATION OF GENERAL  
SHORT

10:31 (1-12-42)  
L. H. S.

~~ENCLOSURE~~

47 AGO  
JAN 12 1942  
Received  
10:40pm



13

Jso 2/23/42

Index & File

90

S. C. Form No. 11

# Signal Corps, United States Army

Received at

War Department Message Center,  
Room 3441, Munitions Building,  
Washington, D. C.

PRIORITY

229 WVY.GL 27 PTY WD

*J. T. Hunt*

HQ WDC AND 4TH ARMY PRES SANFRAN 121P JAN 12

AG

WNDC

MAJOR GENERALS WALTER C SHORT O DASH 1621 AND FREDERICK L MARTIN O DASH 2507 REPORTED THIS HQ FOR DUTY JAN TWELFTH COMPLIANCE WAR DEPT ORDERS

DEWITT CG WDC AND FOURTH ARMY

853P

*noted Rogers 1/17/42  
Paw 1/16/42*

*noted  
Hogwood  
1/18/42*

*Stackhouse*

*Noted by Gen Adams*

JAN 13 1942

~~Col Whipple~~



*(12)*

~~noted~~

RECEIVED  
OFFICERS' DIVISION  
G. O.

*Round Section  
noted  
1625-1-19-42*

*noted -ORS  
Vernellone 1606  
1/15/42*

*Funkberg  
1/12*

*V*



TELEGRAM

OFFICIAL BUSINESS—GOVERNMENT RATES

FROM	WAR DEPARTMENT
BUREAU	...
NO.	210.31 (1-12-42)

JANUARY 13, 1942.

TO: MR. ...  
 FROM: MR. ...  
 SUBJECT: ...

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TO: MR. ...  
 FROM: MR. ...  
 SUBJECT: ...

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WAR DEPARTMENT  
OFFICE OF THE SECRETARY  
MEMORANDUM

Schow

This is to be held for  
a few days to await  
the cooling down of the  
situation

HAS

128



is accepted, ~~as to~~ effecting —,  
to ~~later~~ <sup>to</sup> effect in  
national ~~judicial~~, <sup>the</sup> interests of the  
government.

~~CONFIDENTIAL~~

WAR DEPARTMENT  
WAR DEPARTMENT GENERAL STAFF  
PERSONNEL DIVISION 6-1  
WASHINGTON

1-1/18-42

February 17, 1942.

MILITARY ADJUTANT GENERAL:

Subject: Action in connection with the retirement of Major General William H. Short, United States Army.

The Secretary of the Adjutant General:

1. That in connection with the retirement of Major General William H. Short, United States Army, the following orders will be taken:

a. That a letter be prepared for the signature of The Adjutant General in regard to General Short, stating in effect that his application for retirement for over 4 years' service is approved effective January 21, 1942, with no consideration of any officers, or applicants for future disciplinary action.

b. That orders be prepared retiring General Short, by direction of the President, and that said orders contain a statement of the conditions under which the application for retirement was accepted, as set forth in paragraph a above.

c. That the letter and the draft of orders be submitted to The Joint Chiefs of Staff for approval.

d. That the letter and the letter of the orders be presented to the Secretary of War for his signature and approval.

e. That an order be prepared to be sent by air-mail to Oklahoma City, Oklahoma, to the present address of General Short, and to deliver to him the letter in connection with his retirement, and to advise him of his retirement.

f. That the letter and the orders be referred to the Adjutant General for his signature and approval.

1-1-18-42  
1-1-18-42  
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1-1-18-42

Approved: [Signature] 1-1-18-42  
CONFIDENTIAL

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~~CONFIDENTIAL~~

ascertain whether or not he is in Oklahoma City, Oklahoma, or at his address, 410-14th Street, N. W., and if he is, the courier, and to inform him that such courier is authorized to deliver to him certain official papers.

g. That the courier, Major William L. Hill, is instructed specifically as to the nature of the mission and that the papers in question will be delivered to him personally by General Short and that he will obtain a receipt from General Short for the papers so delivered, and that when this is accomplished he will telephone, without delay, to The Adjutant General, Washington, D. C., reporting whether or not he has accomplished his mission and the time thereof, and any other information which he believes appropriate.

h. That The Adjutant General, upon receipt of the report of the courier that the papers in question have been delivered to General Short, will immediately transmit such information to General Series, General of Private Affairs, and to General Willing, Assistant Chief of Staff, G-1.

i. That upon receipt of this information, General Series and General Willing will transmit this fact to the Secretary of War and no press release will be made until such is directed by the Secretary of War.

j. That in the event a reply is received by the War Department from General Short within 24 hours from the time of delivery of the letter in question, which would indicate that he does not desire to retire under the conditions stated, the Adjutant General will then take the necessary action to accomplish the retirement of General Short under the orders referred to above.

k. In the completion of the action set out above, the Assistant Chief of Staff, G-1, General Willing, will submit to the Secretary of War, the file of papers in connection therewith.

*J. L. ...*  
J. L. ...  
Adjutant General,  
Assistant Chief of Staff.

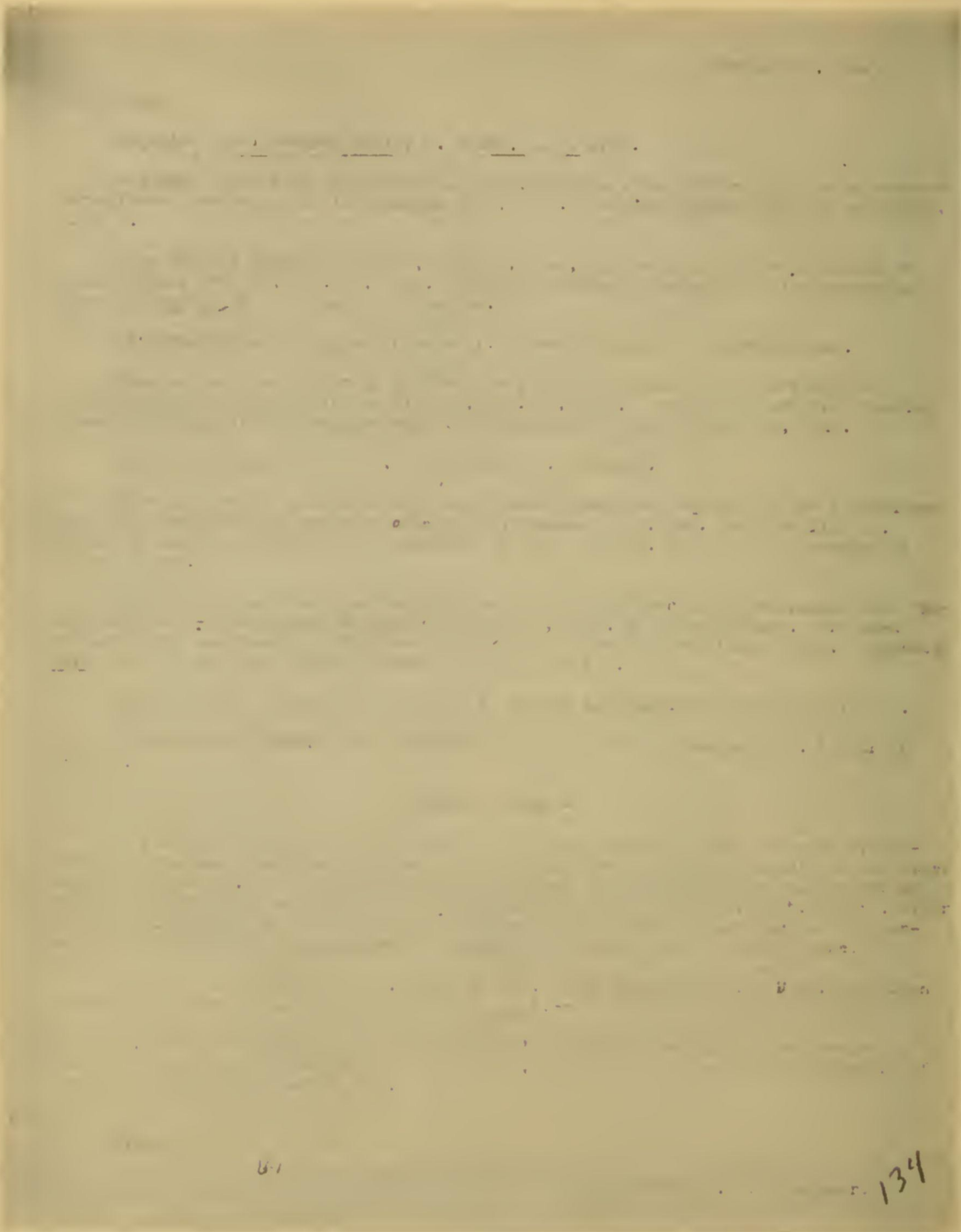
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~~CONFIDENTIAL~~

133



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134



## WAR DEPARTMENT

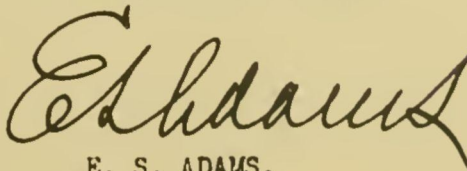
WASHINGTON

The application of Major General Walter C. Short, United States Army, for retirement is approved by the President, and by his direction Major General Short is retired from active service to take effect February 28, 1942, under the provisions of Section 1243, Revised Statutes, after more than thirty-nine years' service.

February 17, 1942.

APPROVED

By order of the Secretary of War:



E. S. ADAMS,  
Major General,  
The Adjutant General.

CONFIDENTIAL

ESA

AG 201-Short, Walter C.  
(1-25-42) OG

February 17, 1942.

Retirement.

Major General Walter C. Short, U. S. Army,  
610 N. W. 15th Street,  
Oklahoma City, Oklahoma.

In reference to your letter of January 25, 1942,  
requesting retirement under the provisions of R. S. 1243;  
10 U. S. C. 943; U. L. 1939, sec. 326, you are advised  
that your application for retirement is accepted, effective  
February 28, 1942, without condonation of any offense or  
prejudice to any future disciplinary action.

By order of the Secretary of War:

E. S. ADAMS  
Major General,  
The Adjutant General.

To be sent by courier Major Edition  
by TPA. Leave leaving 3:45 PM, February  
17, 1942.

APR 8 1942 AM

REC  
F. S. O.

Handwritten notes and stamps including "4-11-42" and "127".

CONFIDENTIAL



WAR DEPARTMENT  
THE ADJUTANT GENERAL'S OFFICE

WASHINGTON

IN REPLY  
REFER TO

18



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SHORT

February 19, 1942.

Notes - (from Col. Ostrander)

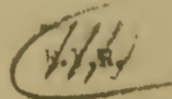
1. At 9:45 A.M. - Feb. 19, if nothing heard from General Short - call Colonel Walsh (G-1 office) and report fact. Walsh #2606..
2. Wait for Secretary of War's release on order. (Reg. mail - return receipt demanded)

Notes by Col. Hemenway

- Herewith -
1. Ret. order (original and two carbons)
  2. Let of transmittal with one form.
  3. Memo to AG from G-1, Feb 17th with one carbon.
  4. Memo - Sequence of events (by Col. Ostrander)
  5. Signed receipt from Gen. Short for letter advising re retirement.
  6. Copy of letter to Gen. Short.
  7. Copy of retirement order as originally drafted showing administrative correction reference P/A for shipment of H.H. goods. *and status,*

9:45 A.M. - February 19th

- Called Col. Walsh for instructions.
  - Reported no word from General Short.
  - Walsh stated that last night General Hillring called, stating Sec. Simpson had talked to President (assumed Sec. Knox was in on this) and that any communication to press would be made by President.
- No orders to issue until release obtained from Sec. War or G-1.



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FEBRUARY 14, 1942.

DEAR FRANK: Here is my own revised suggestion as to the saving clause to be inserted in the acceptance of the retirement:

"without condonation of any offense or prejudice to any action on behalf of the Government."

Any reasons we want to give for our action can be said to the press. I am in favor of leaving the acceptance itself in this language if the Attorney General says that it is sufficient to keep open the power to court martial. I will talk with you about it on Monday if you desire.

Faithfully yours,

/S/ HENRY L. STIMSON,  
*Secretary of War.*

HON. FRANK KNOX,  
*The Secretary of the Navy.*

HLS: ECN

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FEBRUARY 25, 1942.

The President intends to ask for a court-martial on the issue of whether as stated in the report of the Roberts' Commission, there was a dereliction of duty on the part of Admiral Kimmel and General Short; the court to be held as soon as the public interest permits. It is the privilege of the officers themselves to ask for such a court-martial.

ARTICLE OF WAR 97: When and by whom ordered:

A court of inquiry to examine into the nature of any transaction of or accusation or imputation against any officer or soldier may be ordered by the President, or by any commanding officer; but a court of inquiry shall not be ordered by any commanding officer except upon the request of the officer or soldier whose conduct is to be inquired into.

Charges and specifications sworn to.

Anybody subject to military law may swear to them. No officer has a right to institute a court martial against himself.

10  
11  
H 142

February 26, 1942.

MEMORANDUM for the Chief of Staff.

Subject: Retirement of General Walter C. Short.

1. General Short was notified that his application for retirement was accepted effective February 26, 1942, "without condonation of any offense or prejudice to any future disciplinary action". I understand that at the time this notice was delivered to General Short he was orally notified by the courier delivering the letter that if he had any objections to make they should be made within twenty-four hours, otherwise the order for his retirement would issue. Under these conditions the rights of the Government to bring him to trial before court-martial are preserved and trial may be had at any time within the period of the Statute of Limitations when it may be in the public interest to do so.

2. It would seem inadvisable at this time as a matter of policy to issue a statement that these officers will be tried by court-martial at any specified future time. Nothing would be gained by such a commitment. The exigencies of the service may be such that it will be impossible at that time to try these officers. It is impossible to tell what the war conditions will be at any future time, the officers who would be required as witnesses will very probably be scattered all over the world, and it might be a physical impossibility to assemble them for such a trial. Furthermore, these officers will most likely be engaged in most important duties from which they cannot be relieved without serious damage to the war effort. The defense would certainly attempt to pass part of the blame to the War Department. Such evidence or argument, if publicly aired, would tend to discredit the War Department and cause a lack of confidence by the people in the men in charge of the war operations. This would certainly be so if the trial should result in acquittal or a mild sentence.

3. With reference to the suggestion that it is the privilege of the officers themselves to ask for such a court-martial, in so far as General Short is concerned there is no law which authorizes him to request a court-martial. He could, under the 37th Article of War, demand a court of inquiry but there would be no object in granting such a request inasmuch as the Roberts Commission has already investigated the matter and covered the same ground as would a military court of inquiry. Furthermore, when oaths are preferred they must be sworn to by a person subject to military law



CONFIDENTIAL

to the effect that he personally signed the charges and specifications and that he has personal knowledge of the matters set forth in the specifications, or that he has investigated the matters set forth in the specifications, and that the same are true in fact to the best of his knowledge and belief. The theory of the Articles of War is that persons are tried by a court-martial, not upon their own request but upon charges preferred as above stated. No such charges have as yet been preferred, and it is thought inadvisable for the President to announce in advance of such preferment that the officers concerned will be tried, as his doing so would give an opportunity to the defense to allege that the President is the accuser and to charge that the court convened by him, the sentence of which is subject to his approval, is not an impartial body.

It has been in person by General  
... ..  
...

al.

C. P.

11

Final

February 26, 1942.

The Secretary of War announced today the acceptance, effective February 28, 1942, of the application for retirement of General Walter C. Short, "without condonation of any offense or prejudice to any future disciplinary action."

The Secretary of War announced at the same time that, based upon the findings of the report of the Roberts' Commission, he had directed the preparation of charges for the trial by court-martial of General Short, alleging dereliction of duty. The Secretary of War made it clear, however, that the trial upon these charges would not be held until such time as the public interest and safety would permit.

WAR DEPARTMENT  
OFFICE OF THE SECRETARY  
MEMORANDUM

Papers on Gen Short's  
Retirement as approved  
by the Pres.

A-25

C10

file 4116/1 ✓ 121-43-618

126

**SECRET**

WAR DEPARTMENT  
OFFICE OF THE CHIEF OF STAFF  
WASHINGTON

*Record Section File  
Hwy*

*G-1116-15-12*

February 27, 1942.

*[Handwritten signature]*

MEMORANDUM FOR THE SECRETARY OF WAR:

General Hildring read the approved news release to General Short over the telephone yesterday evening at about seven o'clock. A copy of the news release was also sent by air mail, special delivery, to General Short at Fort Sam Houston, Texas, where he is visiting at present.

*[Handwritten signature]*  
Chief of Staff.

APR 1 1942 AM

RECEIVED  
F. S. [unclear]

*Record Section File  
4-11-42*

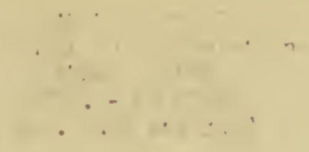
*4-11-42  
Chief of Staff  
Initialed  
2. 27-42*

*7-1  
4/5/42*

**SECRET**

PK-117





February 2, 1904

MEMORANDUM

MEMORANDUM FOR THE RECORD

[Faint, illegible text body of the memorandum, appearing to be several paragraphs of typed text.]

*Reu*

NAVY SERVICE BULLETIN  
PUBLISHED WEEKLY BY THE BUREAU OF NAVAL PERSONNEL

INTELLIGENCE AND ANALYSIS BRANCH  
BUREAU OF PUBLIC RELATIONS  
War Dept. Branch No. 4739

2:30 p. m., February 25

PEARL HARBOR

GENERAL COURT-MARTIAL  
FOR KINZEL AND SHURT

Washington--The Secretaries of War and Navy today ordered trials by court-martial for the two men blamed in the report of the Roberts Commission for the Pearl Harbor disaster--Rear Admiral Leonard E. Kinzel and Maj. Gen. Walter C. Short. Secretary Knox announced that Short would be charged with "dereliction of duty"--the same accusation made by the Roberts Commission. Secretary Knox, however, simply stated that he had ordered the "preparation of charges" for court-martial of Kinzel, the charge to embrace the findings of the Commission. Both men had made application for retirement on February 7 and on the announcement today their requests were granted. No mention was made of any offense or prejudice to any former military action. --AP (11:40P)

DEFENSE COMMISSION  
ON MEXICO COMMISSION

Washington--President Roosevelt today named U. S. members of a special Mexico-U. S. Commission created "to consider broad plans for the defense of Mexico and adjacent areas of the U. S. The members named by the President are Lt. Gen. Stanley D. Hooper, U. S. Army, retired, chairman, and Vice Admiral Alfred W. Johnson, U. S. Navy, retired. --UP (11:40A)

NAZI SEND PLANES TO MIB  
FROM AIR, SEND REPORTS

Moscow--Adolf Hitler was reported tonight to have shifted perhaps 1,000 airplanes to the blazing northeastern front in a desperate attempt to save the 16th Nazi Army at Smolaya from annihilation under short-range blasts of Russian artillery. --UP (12:40P)

FARM LEADERS MEET  
CONFERENCE WITH PRESIDENT

Washington--The Senate Agriculture Committee today named a special subcommittee to seek a conference with President Roosevelt in an effort to heal the breach between the White House and the farm folk over prices of farm products. --Ips (12:27P)

NAVY SERVICE  
OFFICIALS ADVISE

Welles--A 9-man official Navy Agency dispatch from Tokyo said today that Japanese naval bombers set a British cruiser of the Flower Class (8,000 tons, 600 officers and men) afire near Manila yesterday. --AP (11:44A)

**CONFIDENTIAL**

Navy Department Communique # 47, 28 February 1942.

The Secretary of the Navy announced today the acceptance effective March 1, 1942 of the application for retirement of Rear Admiral H. E. Kimmel, U.S. Navy, "without condonation of any offense or prejudice to any future disciplinary action." The Secretary of the Navy announced at the same time that based upon the findings of the report of the Roberts Commission he had directed the preparation of charges for the trial by court martial of Rear Admiral Kimmel alleging dereliction of duty. The Secretary of Navy made it clear, however, that the trial upon these charges would not be held until such time as the public interest and safety would permit.

**CONFIDENTIAL**

57



OFFICERS CLUB,  
Fort Sam Houston, Texas,  
March 9, 1941.

Subject: Physical Condition.

To : The Adjutant General,  
United States Army,  
Washington, D. C.

1. On February 27, 1942, the undersigned reported to the Station Hospital, Fort Sam Houston, Texas, and requested a thorough physical examination prior to contemplated retirement. This examination was completed on February 28, 1942, and the report of the same is a matter of record at the hospital named above.

2. As a result of the examination, including necessary laboratory procedure, I was advised by the examining physicians that on account of a heart and lung condition I should limit and restrict my physical activities. At the same time I was advised informally that my physical condition existing at the time of the examination and necessarily for some time prior thereto was such as would have warranted and required my retirement from active service on account of physical disability.

3. In view of the foregoing it is requested that a copy of the report of the physical examination pertaining to my case and referred to above be obtained from the Commanding Officer of the Station Hospital, Fort Sam Houston, Texas, and that appropriate action, based upon the recorded physical findings, be taken by your office.

4. Although the effective date of my retirement was February 28, 1942, it is requested that, if possible, action be taken to change my status to retirement on account of physical disability incurred in line of duty and incident to the military service.

5. I am aware of the probable legal difficulties in the way of such a course of action. In the event the action requested can not be now legally accomplished, then it is requested that the report of the physical examination be filed with my retirement papers. If the report of the physical examination sufficiently establishes physical disability in line of duty and incident to the military service which, but for the accomplished fact of retirement at my own request, would have warranted or required my retirement for physical disability, then I request that a finding to that effect be entered upon the same and included with the record of my retirement.

6. I disclaim any intention to embarrass or annoy the War Department in time of war with my personal affairs. However, having now discovered for the first time my physical condition, I very naturally desire that it be made of record with my retirement file and that any corrective action deemed appropriate be taken in connection with the same.

22470

MAR 15 1942

Received

Walter C. Shurt,  
WALTER C. SHURT,  
Major General, U. S. Army. Ret.

130



## Section B

## WAR DEPARTMENT

## OFFICE OF THE SECRETARY

T. J. A. G.

## MEMORANDUM

- Review of Sept 10/43

of all the accusations. This  
 presented I think you  
 had better go ahead and  
 try to follow the Navy's  
 example. And get a  
 waiver of the statute.  
 Genl Short - will not  
 be harmed; on contrary  
 he will probably be benefited  
 by the delay.

it vs



WAR DEPARTMENT  
 ARMY SERVICE FORCES  
 OFFICE OF THE JUDGE ADVOCATE GENERAL  
 WASHINGTON

*Original*

SPJGJ

10 SEP 1943

MEMORANDUM FOR THE SECRETARY OF WAR.

Subject: Court-martial of Major General Walter C. Short.

1. The statute of limitations will bar trial of General Short and Admiral Kimmel 7 December next.
2. To meet this situation the Navy Department has obtained from Admiral Kimmel a waiver of the statute of limitations. Copy of letter of Secretary Knox to Admiral Kimmel and photostats of his reply and waiver are attached hereto.
3. In obtaining the waiver from Admiral Kimmel the Navy Department used as an intermediary Rear Admiral Harris, Retired, with whom Admiral Kimmel practices civil engineering in New York City. It is believed desirable that if a waiver is presented to General Short, he should likewise be approached by a personal friend.
4. This office has heard, though it cannot verify, that the Navy Department's action in getting the waiver was approved in advance by the President. The possibility that General Short will not execute a waiver is fully appreciated but an effort in that direction by a trusted intermediary, who can if necessary display Admiral Kimmel's waiver, seems on the whole worthwhile. The undesirable alternatives would be to request legislation extending the statute of limitations in General Short's case or to order an immediate investigation under Article of War 70 and refer the case for trial before a court composed of officers senior to General Short. Arraignment before such a court would stop the running of the statute but the court could hardly proceed with the trial due to the impracticability of obtaining witnesses who are scattered all over the world and could only adjourn indefinitely. Another possibility would be to drop the matter entirely, decision as to which, in view of his former instructions, would doubtless be a matter for the President.
5. In the event a waiver from General Short is desired, there are inclosed herewith letter to him to be signed by you, for delivery by hand, and form of waiver.

*Myron C. Cramer*

Myron C. Cramer,  
 Major General,

The Judge Advocate General.

- 3 Incls.  
 Incl. 1 - Copy ltr. of Sec. of Navy.  
 Incl. 2 - Photo, copy ltr. 7/9/43  
 w/1 incl.  
 Incl. 3 - Ltr. to Gen. Short w/1 incl.



WAR DEPARTMENT  
 ARMY SERVICE FORCES  
 OFFICE OF THE JUDGE ADVOCATE GENERAL  
 WASHINGTON

MEMORANDUM FOR GENERAL CRAVER.

Re: Validity of agreement in advance to waive statute of limitations.

Examination of the meagre applicable authorities indicates that an agreement made in advance to waive a criminal statute of limitations is of very dubious validity. While the law is that if the bar of the Statute is not asserted it is waived, the basis of the statute of limitations is the sound public policy that prosecuting officers must be diligent to prosecute while the witnesses are available and the details of the crime are fresh in their minds. It is a question whether an accused can agree to waive this public policy. But assuming he can so agree his agreement is at most a contract. If he breaches it he is merely guilty of a breach of contract. His substantive right to plead the Statute would not, in my opinion, be destroyed by an advance agreement not to plead it. He might say the agreement was without consideration or that there was no warrant of law for his agreement in advance to waive the statute of limitations. As to undisclosed offenses, charges as to which had not then been investigated and served on him within the meaning of Article of War 70 nor referred for trial and as to which a court had not even been appointed at the time of the waiver, a substantial showing might be made of his inability to waive a substantive right under these conditions.

No cases of agreements to waive a criminal statute of limitations can be found in the books, itself a strong indication that no one has ever attempted it. There is a statement in 16 Corpus Juris Secundum, page 228, repeated in 22 Corpus Juris Secundum, page 235, to this effect:

"An indictment, found after the expiration of the time for beginning the prosecution, is barred by the statute of limitations, and it is not saved by the fact that the prosecution was withheld on account of an agreement with accused."

The case cited, however, *Com. v. Warner*, 5 Pa. Superior, 249-251, shows that the agreement was not an agreement to waive the statute but an agreement to support the prosecutrix and her children.





In civil cases a specific agreement not to assert the statute of limitations is usually upheld. However, in such cases the debtor has reaped an advantage from his promise and the basis of the decision is the equitable ground of estoppel. In 130 A.L.R. 21 there is a minority view illustrated by Shapley v. Abbott, 42 N.Y. 443, containing the trenchant statement:

"No case has occurred to me in which a party can, in advance, make a valid promise that a statute founded in public policy shall be inoperative".

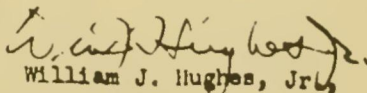
The case relied upon by the Navy, Mullen v. U.S., 212 U.S. 516, is hardly conclusive. There a Naval officer was convicted by a court of inquiry as a result of which he was liable to discharge from the service. In this situation he applied to the Secretary of the Navy for a court-martial to try him on charges based on the findings of the court of inquiry. The Secretary of the Navy agreed to the trial by court-martial provided that the accused would agree that the evidence before the court of inquiry, which a statute prohibited being submitted to the court-martial, could in fact be submitted to the court-martial. The Supreme Court on the basis of Schick v. U.S., 195 U.S. 65, permitting waiver of trial by jury, held that the accused could waive his right to have the witnesses appear personally at the trial and that as the Secretary was under no legal obligation to call a court-martial and did so for the benefit of the accused, he could convene the court under such conditions exacted in advance as he saw fit. The case finally turned on the fact that the accused had been deprived of no substantial right as he was allowed to call additional witnesses if he wanted to.

My conclusion therefore, from a quick search, is that a waiver in advance is, as an abstract question, of doubtful legality.

As a concrete question, if the accused executes a waiver he could only repudiate it at the trial by pleading the statute of limitations. The court would probably overrule the plea on the basis of the waiver which the prosecution would thereupon submit in evidence.

Under Capone v. Aderhold, 2 Fed. Supp. 280, affirmed in 65 Fed. 2d 130, error in passing upon the validity of a plea of the statute of limitations is error committed in the exercise of jurisdiction which can not be reached on habeas corpus. The only thing the accused could do, therefore, would be to sue in the court of claims for his pay which court, under Dynes v. Hoover, 20 Howard 65, Swain v. U.S., 165 U.S. 563, undoubtedly would refuse to open the record and retry the case on this point.

My recommendation therefore is that an attempt should be made to secure a waiver from the accused and that the waiver should follow the form, in general, of that obtained by the Navy.

  
William J. Hughes, Jr.  
Lieutenant Colonel, J.A.G.D.

280 BRONXVILLE ROAD, BRONXVILLE, N. Y., *September 7, 1943.*

From: Rear Admiral Husband E. Kimmel, U. S. N., Ret., 280 Bronxville Road, Bronxville, N. Y.

To: The Honorable Frank Knox, Secretary of the Navy, Navy Department, Washington, D. C.

Reference (a) Letter from Secretary of the Navy, Frank Knox, to Rear Admiral Husband E. Kimmel, U. S. N., Ret., proposing a waiver of the Statute of Limitations.

Enclosure (A) Agreement not to plead the Statute of Limitations in bar of trial by General Court Martial.

SIR: Receipt is acknowledged of your undated letter, Reference (a), delivered to me by hand August 27th, 1943, concerning a General Court Martial in my case, in which letter you state that the two-year statute of limitations controlling Naval Courts Martial will have run on my case on December 7th, 1943, and you propose that I should now agree not to plead the statute of limitations in bar of trial and you enclose a proposed form of waiver.

You state in Reference (a) that you think that the public interest and safety would now permit proceeding with my trial, but that you further believe that so long as the war continues it will be manifestly impracticable to have a number of important witnesses appear before the court on account of their war duties. For this reason, among others, you feel that it would be in the best interests of all concerned if I should now agree not to plead the statute of limitations in bar of trial and you give me your assurance that the trial will be held at the earliest practicable date.

It is my personal desire to be brought to trial by General Court Martial in open court at the earliest practicable date. Delay in the matter is opposed to my personal interests, since the passage of time and the circumstances and casualties of war and of the period following may make it difficult, perhaps impossible, to assemble and produce the evidence and the witnesses required. I have at all times been anxious to subordinate my own interests to the national welfare, which appears to require that my trial be delayed. I am therefore forwarding to you herewith a waiver, Enclosure A, executed by me which I hope will be satisfactory to you.

Respectfully,

HUSBAND E. KIMMEL.

Encl. (1)

ENCLOSURE (A) TO LETTER DATED SEPTEMBER 7TH, 1943, FROM REAR ADMIRAL HUSBAND E. KIMMEL, U. S. N., RET., TO THE SECRETARY OF THE NAVY

I, Husband E. Kimmel, Rear Admiral, United States Navy, Retired, hereby agree on my honor as an officer and a gentleman that I will not plead, nor permit any attorney or other person on my behalf to plead, the statute of limitations in bar of my trial by General Court Martial in open court for any alleged offenses with which I may be charged relating to the period on or before December 7th, 1941, should my trial be held during the present war or within six (6) months thereafter.

I take this action voluntarily, believing it to be in the public interest.

HUSBAND E. KIMMEL.



Major General Walter C. Short,  
United States Army, Retired.

My dear General Short:

In connection with your possible trial by general court-martial, the two-year statute of limitations prescribed by Article of War 39 will, unless action is taken to prevent it, bar your trial by general court-martial 7 December 1943. The tolling of the statute of limitations would be stopped by either a present waiver by you or your arraignment before a general court-martial, which, probably, would adjourn the case until later.

So long as the war continues it will be impracticable to have a number of important witnesses appear before the court on account of their war duties. In this situation it has occurred to me that the practical thing to do is to postpone any possible trial until later and that you may desire for this purpose to execute a waiver of the statute of limitations. In the event that you see fit to do this, I give you my personal assurance that any trial determined upon will be had at the earliest practicable date.

If you should agree with the foregoing your prompt return of the inclosed form of waiver, duly executed by you, is requested.

Sincerely yours,

1 Incl.  
Waiver.

Secretary of War.

Stenographic notes and rough draft in this case have been destroyed.

Disinterested officer VTC  
Custodian P.T.

*W.C. Short*  
W.C. Short, Jr., c/s

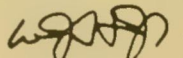
## WAIVER

September , 1943.

I, WALTER C. SHORT, Major General, United States Army, Retired, hereby agree on my honor as an officer and a gentleman that I will not plead, nor permit any attorney or other person on my behalf to plead, the statute of limitations in bar of my trial by General Court Martial in open court for any alleged offenses with which I may be charged relating to the period on or before December 7th, 1941, should my trial be held during the present war or within six (6) months thereafter.

I take this action voluntarily, believing it to be in the public interest.

Walter C. Short,  
Major General, U. S. Army, Retired.



25 SEPTEMBER 1943.

Memorandum for: The Judge Advocate General.

There is attached hereto a waiver dated September 20, 1943, signed by Major General Walter C. Short, U. S. Army, Retired, in which he agrees to waive the statute of limitations in bar of his trial during the present war and within six (6) months thereafter.

The above waiver was obtained pursuant to your verbal instructions.

T. H. GREEN,  
*Brigadier General, U. S. Army,*  
*Assistant Judge Advocate General.*

Incl.  
Waiver & pertinent papers.

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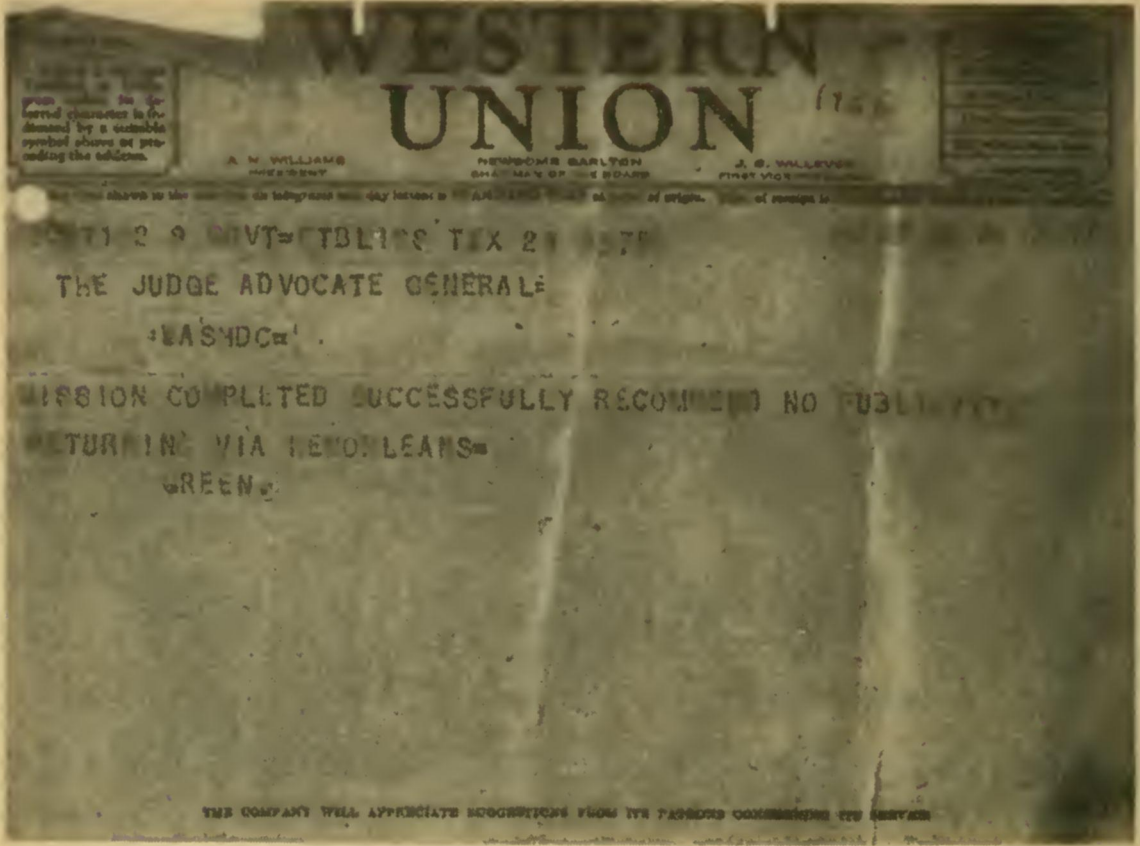
WAIVER

SEPTEMBER 20, 1943.

I, Walter C. Short, Major General, United States Army, Retired, hereby agree on my honor as an officer and a gentleman that I will not plead, nor permit any attorney or other person on my behalf to plead, the statute of limitations in bar of my trial by General Court Martial in open court for any alleged offenses with which I may be charged relating to the period on or before December 7th, 1941, should my trial be held during the present war or within six (6) months thereafter.

I take this action voluntarily, believing it to be in the public interest.

WALTER C. SHORT,  
*Major General, U. S. Army, Retired.*



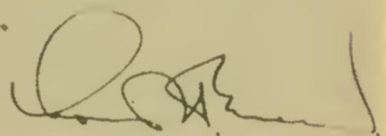


MEMORANDUM FOR MAJOR GENERAL MYTON S. WOODRUFF, U. S. Army, Retired,  
 3130 ST. Paul Street, Dallas, Texas, U. S. Army, Retired.

Pursuant to your instructions, I proceeded to Fort Bliss, Texas, arriving there Sunday, 17 September 1943, about 11:30 a.m. I was met at that time by Major General G. W. Woodruff, U. S. Army, Retired, who arrived from Coronado, California, pursuant to my telephone conversation with him. According to instructions, I immediately conferred with General Woodruff and gave him the agreement to waive the statute of limitations and other papers prepared by Lieutenant Colonel William J. Hughes, Sr., of this office. General Woodruff left El Paso the same day by plane for Dallas at 4 p.m. and returned about 7 p.m. 22 September 1943. Upon his return, General Woodruff informed me that he had interviewed Major General Walter C. Short, U. S. Army, Retired, at Dallas, Texas on 20 and 21 September and that General Short had signed the agreement to waive the statute of limitations.

General Woodruff handed the signed agreement to me and I reported to you by radio on Wednesday, 22 September 1943 that the mission had been accomplished. I then returned to Washington, made my report to you and place the signed waiver and the other papers in file.

General Woodruff had plane reservations to proceed to his home on 23 September 1943 and I presume he left on that date.



T. F. Green

CONFIDENTIAL

27 SEP 1943

## MEMORANDUM for The Secretary of War.

**Subject:** Court-martial of Major General Walter C. Short,  
U. S. Army, Retired.

1. Under date of 7 September 1943, Rear Admiral Husband E. Kimmel, U. S. Navy, Retired, executed an agreement to waive the statute of limitations in bar of trial by general court-martial in open court for any alleged offenses with which he may be charged relating to the period on or before December 7, 1941 should his trial be held during the present war or within six months thereafter.

2. Under date of 20 September 1943, Major General Walter C. Short, U. S. Army, Retired, executed a similar agreement.

3. In view of the public interest in the matter as evidenced by recent newspaper articles and letters from Congressmen, it is suggested that it would be desirable that some public announcement be made by the War and Navy Departments. It is recommended that if an announcement is to be made, it be made simultaneously by both departments thus achieving solidarity.

4. The following is a suggested draft of an announcement on the subject.

The Secretary of War and the Secretary of the Navy have concluded that it is undesirable in the public interest to proceed at this time with the trial of Rear Admiral Husband E. Kimmel and Major General Walter C. Short. Accordingly, it has been decided to postpone proceedings against these officers until such time in the future as may be decided upon as being appropriate.

Both officers have voluntarily agreed to waive the statute of limitations in bar of their trials

CONFIDENTIAL

for the duration of the war and for six months thereafter.

The postponement will not affect the existing rights of the government nor those of the officers concerned.

MYRON C. CRAMER

Myron C. Cramer,  
Major General,  
The Judge Advocate General.

1 Incl.-- Copy of waiver.

MAILED 25

DISPATCH  
WAR DEPARTMENT

## Section C

WAR DEPARTMENT  
WAR DEPARTMENT GENERAL STAFF

PERSONNEL DIVISION G-1

WASHINGTON

G-1/9254-59

March 2, 1942.

**SECRET**

MEMORANDUM FOR THE JUDGE ADVOCATE GENERAL:

Subject: Secret Documents pertaining to the  
Investigation at Pearl Harbor.

The secret documents delivered to you by Colonel Oscar B. Abbott on March 2 constitute the entire file on the above subject. These documents are delivered to you for use in connection with the charges you are preparing relative to the proposed trial of Major General Walter C. Short. They are to be considered of utmost secrecy.

J. H. MILLERING,  
Brigadier General,  
Assistant Chief of Staff.

Incls.

- 1 envelope containing:
  - 1 List showing documents furnished the A/Ar.
  - 1 List showing documents furnished the A/Nav.
- Minutes of Commission to ascertain & report facts relating to the attack made by Japanese forces upon Territory of Hawaii, 12-7-41.
- 1 package containing shorthand notes of testimony before Commission appointed by the President, 12-18-41, to investigate attack by Japanese of Dec. 7, 1941, on Hawaii.
- 1 package containing 16 volumes transcript of testimony before Commission investigating Japanese attack on Hawaii, 12-7-41, plus 1 annex of approved testimony.
- 1 Package containing secret, confidential & unclassified documents on numbers and shown on enclosed list inside package (1 Para 30).

*Gerard N. Byrne*  
GERARD N. BYRNE  
Major, Infantry  
Assistant Executive

**SECRET**



**SECRET****I****WAR DEPARTMENT****OFFICE OF THE JUDGE ADVOCATE GENERAL****WASHINGTON**

April 2, 1942.

Subject: Secret Documents Pertaining to the Investigation  
of Pearl Harbor.

To: Colonel J. Franklin Cannon.

1. The secret documents listed below constitute the entire file upon the above subject. These documents are for use in connection with charges you are to prepare relative to the proposed trial of Major General Walter D. Short. They are to be considered of the utmost secrecy.

- 1 envelope containing:
  - list showing documents furnished the C/3ar.
  - list showing documents furnished the C/Nav.
  - Minutes of Commission to ascertain report facts relating to the attack made by Jap. Armed Forces upon Territory of Hawaii, 12-7-41.
- 1 package containing shorthand notes of testimony before Commission appointed by the President, 12-13-41, to investigate attack by Japanese of Dec. 7, 1941, on Hawaii.
- 1 package containing 10 volumes transcript of testimony before Commission investigating Japanese attack on Hawaii, 12-7-41, plus 1 index of appended testimony.
- 1 package containing secret, confidential & unclassified documents as numbered 1 to 26, inclusive, as follows:

No.

- 1 Memorandum of 12/23/41, Capt. S. K. K. K. K., A.D., to Executive Officer, Hawaiian Interceptor Command, concerning parking areas on Island of Oahu, Oahu, Hawaii, etc.

**SECRET**

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**SECRET**

- Belmont Field, together with charts accompanying the memorandum (the latter being rolled together with the charts)
- 1-A Secret Map Annex 1 to accompany 10 1 fixed installations", Island of Oahu
  - 2 Secret Map "Hawaiian Defense Project 1941 - Anti-aircraft Dispositions"
  - 3 Map showing military reservations on Island of Oahu
  - 4 Special Military Map of Hawaiian Islands
  - 5 Map and explanatory notes showing ground defenses at Hickam Field
  - 6 Map of Hickam Field showing disposition of aircraft at time of attack
  - 7 Statement by Major General Walter L. Short of event and activities leading up to the Japanese attack, December 7, 1941
  - 8 Letter of December 11, 1941, Lt. Col. Davidson, Signal Corps, to Commanding General, 1st Air Depot, reporting diary and other records of all units from 0600 to 0730 on December 7, 1941
  - 9 Reports of Lt. Col. Davidson, Lt. Col. and Lt. Col. showing ground defense activities at Bellows Field from 15, 1941 to December 7, 1941
  - 10 Letter, 23 Dec. 1941, Leonard A. Smith, Lt. Col., Signal Corps, Belmont Field, to Lt. Col. Davidson, reporting records of operations of all units from 0600 to 0730 on Dec. 7, 1941 and field orders or instructions for alert and combat
  - 11 Letter, 22 Dec. 1941, Jay E. Thomas, Lt. Col., 1st Air Depot, Operations Officer, to Lt. Col. Smith, reporting records of operations and instructions received by 1st Air Depot from 0600 to 0730 on Dec. 7, 1941
  - 12 Letter, 23 Dec. 1941, Lt. Col. Smith, Executive, Belmont Field, to Major Lacey, 1-3, 1st Air Depot, reporting disposition of planes and bunkers on island at time of attack, together with layout of ground defenses at Bellows Field accompanying the same
  - 13 Statement of Lt. Col. Smith, Lt. Col., Belmont Field, reporting ground defenses at Bellows Field on Dec. 7, 1941 and thereafter

**SECRET**

**SECRET**

- 14 Letter, 22 Dec. '41, Leonard D. Wellington, Lt. Col. A.C., Commanding Bellows Field, to Major Lindsay, C-3, Hawn. Air Force, reporting action taken at said Field on orders given by the responsible commanders, for security since Dec. 7 '41
- 15 Memorandum, Leland C. Hard, Lt. Col. A.C., Commanding Hickam Field, to C.G. Hawn. Air Force, dated date 23 Dec. '41, containing information as to arrangements made, orders issued, and verbal action, since Dec. 7, for proper protection of Hawaiian Air Depot, Hickam Field
- 16 Letter 22 Dec. '41, W. J. Flood, Colonel, A.S., Commanding Wheeler Field, to C.G. Hawn. Air Force, giving information concerning arrangements or instructions and orders for security of Wheeler Field since attack of Dec. 7
- 17 Letter 23 Dec. '41, J.H. Rudolph, Brig. Genl. USA, Commanding 18th Bombardment Wing, Air Corps, to C.G. Hawn. Air Force, concerning arrangements or instructions and orders for security since Dec. 7
- 18 Memorandum 22 Dec. '41, G.L. Tinker, Brig. Genl. U.S.A., Commanding Hawaiian Air Force, disclosing orders or instructions for security and employment of Hawaiian Air Force, given by him since his arrival
- 19 Letter 23 Dec. '41, W.C. Davidson, Brig. Genl. A.S., Commanding Hawaiian Interceptor Command, to C.G. Hawaiian Air Force, outlining arrangements and new instructions or orders for security after raid of 7 Dec. 1941
- 20 Letter F.L. Martin, Major General, U.S.A., Commanding Hawn. Air Force, to C.G. Hawn. Dept., dated 20 Sept. 1941, concerning joint Army-Navy Air Force Exercise
- 21 Letter Cheney L. Bertholf, Lt. Col. USA Aigt. General Hawn. Air Corps, to C.G. 18th Bombardment Wing - subject, Attack of Navy Cruising Disposition
- 22 Letter dated Dec. 7 '41, Henry I. Stinson, Secty. of War, to the Secretary of the Navy - subject, Air Defense of Pearl Harbor, Hawaii (copy)
- 23 Memorandum dated 20 Dec. '41, Robert H. Dunlop, Col. A.S., Adjutant Genl. Hawn. Dept., to Major Bruce L. Allen, Air Corps, containing tabulation showing percentage of strength of all major divisions, post and district commanders present at 23 Dec. 1941, except 4th Dist.
- 24 Letter 12/25/41, Maxwell Murray, Major Genl. USA, to Major General Frank McCoy, supplementing General Murray's testimony before the investigative commission.

**SECRET**

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2. Report of the foregoing documents is requested by interested person.

For The Judge Advocate General:

*[Signature]*  
 G. L. Hartman, Jr.  
 Lieutenant Colonel, U.S.A.  
 Executive.

Washington, D. C., Col. W. Granville Munson - To The Judge Advocate General.

Receipt of the documents listed above is acknowledged.

3/10/42.

*[Signature]*  
**SECRET** Colonel, J.A.G.



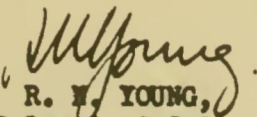
WAR DEPARTMENT  
OFFICE OF THE CHIEF OF STAFF  
WASHINGTON

MEMORANDUM FOR THE JUDGE ADVOCATE GENERAL:

Subject: Report of Roberts Commission.

It is desired that you forward to the Executive Officer, Operations Division, WDGS, for file, the report of the Roberts Commission, together with all supporting papers and records in connection therewith, now in your possession.

By direction of the Chief of Staff:

  
R. W. YOUNG,  
Colonel, G.S.C.,  
Secretary, General Staff.

**SECRET**

WAR DEPARTMENT  
 SERVICES OF SUPPLY  
 OFFICE OF THE JUDGE ADVOCATE GENERAL  
 WASHINGTON

November 23, 1942.

SPJGE

MEMORANDUM to Executive Officer, Operations Division, War  
 Department General Staff.

Subject: Report of Roberts Commission.

1. Pursuant to undated directive of the Chief of Staff there is transmitted herewith, for file in your office, the following enumerated papers and documents constituting the Report of the Roberts Commission and supporting papers and records in connection with said Commission Report:

- 1 envelope containing:
  - List showing documents furnished the S/War ) Incorporated in
  - List showing documents furnished the S/Navy ) Minutes
  - Minutes of Commission to ascertain and report facts
  - relating to the attack made by Jap. armed forces upon
  - Territory of Hawaii, 12-7-41.
- 1 package containing shorthand notes of testimony before Commission appointed by the President, 12-18-41, to investigate attack by Japanese of Dec. 7, 1941, on Hawaii.
- 2 packages containing 16 volumes transcript of testimony (Vol. 1-8, in 1 before Commission investigating Japanese attack on Hawaii, 12-7-41, plus 1 annex of amended testimony. (Vol. 9-16 in other package.)
- 1 package containing secret, confidential and unclassified documents as numbered 1 to 36, inclusive as follows:

No.

- 1 Memorandum of 12/23/41, Capt. C.A. Kengla, A.S., to Executive Officer, Hawaiian Interceptor Command, concerning parking areas and bunkers at Wheeler, Haleiwa, and Bellows Fields, together with charts accompanying the memorandum (the latter being rolled together with the charts)
- 1-A Secret "OPM Map Annex 1 to accompany PG 1 Fixed Installations", Island of Oahu.
- 2 Secret Map "Hawaiian Defense Project 1941 - Anti-Aircraft Dispositions"
- 3 Map showing military reservations on Island of Oahu (1 copy)
- 4 Special Military Map AA of Hawaiian Islands (1 copy)
- 5 Map and explanatory addenda showing ground defenses at Hickam Field.
- 6 Chart of Hickam Field showing disposition of aircraft at time of attack (1 copy)

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I      **SECRET**      I

- 7 Statement by Major General Walter C. Short of events and conditions leading up to the Japanese attack, December 7, 1941 (1 Folger memo. maps etc.)
- 8 Letter of December 23, 1941, R. S. Davidson, Brigadier General, A.C., Commanding Hawaiian Interceptor Command, to Commanding General, Hawaiian Air Force, embodying diary and other records of all units from 0001 15 November 1941 (two copies)
- 9 Reports of E.L. Duggan, 2nd Lt. A.C., and Edward F. Kent, Capt. Inf., Ground Defense Officers, showing ground defense activities at Bellows Field March 15, 1941 to December 7, 1941. (2 copies, carbon not complete).
- 10 Letter, 23 Dec. 1941, Leonard D. Weddington, Lt. Col. A.C., Commanding Bellows Field to C.G. Hawn. Dept., reporting records of operations by all units from 0001, 15 Nov. '41 to 0730, 7 Dec. '41, and Field Orders or Instructions for Alert Procedure (3 copies - all less incl. indicated).
- 11 Letter, 22 Dec. '41, Jay P. Thomas, 1st Lt. 86th Obsn. Sq. (Cob), Operations Officer, to C.G. Hawn. Dept., through C.O. Bellows Field, giving records of operations of and instructions received by 86th Obsn. Sq. from 0001 15 Nov. '41 to 0730 7 Dec. '41
- 12 Memo. 22 Dec. '41, C.K. Rich, Lt. Col. A.C., Executive, Bellows Field, to Major Landry G-3, Hawn. Air Force, re position of planes and bunkers on said Field at time of attack, together with layout map or general plan of Bellows Field accompanying the memorandum (4 copies)
- 13 Statement dated 22 Dec. '41, Edw. F. Kent, Capt. Inf., Ground Defense Officer, Bellows Field, concerning ground defense activities at said Field on Dec. 7 '41 and thereafter (2 copies)
- 14 Memo. 22 Dec. '41, Leonard B. Weddington, Lt. Col. A.C., Commanding Bellows Field, to Major Landry, G-3, Hawn. Air Force, reporting action taken at said Field on orders given by the responsible commanders, for security since Dec. 7 '41
- 15 Memorandum, Leland C. Hurd, Lt. Col. A.C., Commanding Hickam Field, to C.G. Hawn. Air Force, under date 23 Dec. '41, containing information as to arrangements made, orders issued, and verbal action, since Dec. 7, for proper protection of Hawaiian Air Depot, Hickam Field
- 16 Letter 22 Dec. '41, Wm. J. Flood, Colonel, A.C., Commanding Wheeler Field, to C.G. Hawn. Air Force, giving information concerning arrangements or instructions and orders for security of Wheeler Field since attack of Dec. 7
- 17 Letter 23 Dec. '41, J.H. Rudolph, Brig. Genl. USA, Commanding 18th Bombardment Wing, Air Corps, to C.G. Hawn. Air Force, concerning arrangements or instructions and orders for security since Dec. 7 (less Incl. indicated)

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- 18 Memorandum 22 Dec. '41, C.L. Tinker, Brig. Genl. U.S.A., Commanding Hawaiian Air Force, disclosing orders or instructions for security and employment of Hawaiian Air Force, given by him since his arrival.
- 19 Letter 23 Dec. '41, H.C. Davidson, Brig. Genl. A.C., Commanding Hawaiian Interceptor Command, to C.G. Hawaiian Air Force, outlining arrangements and new instructions or orders for security after raid of 7 Dec. 1941
- 20 Copy of letter F.L. Martin, Major General, U.S.A. Commanding Hawn. Air Force, to C.G. Hawn. Dept. dated 20 Sept. 1941, concerning Joint Army-Navy Air Force Exerciss
- 21 Copy of letter Cheney L. Bertholf, Lt.Col. AGD Adjt. General Hawn. Air Force, to C.G. 18th Bombardment Wing - subject, Attack of Navy Cruising Disposition (less Incl. indicated)
- 22 Copy of letter dated Feb. 7 '41, Henry L. Stimson, Secty. of War, to the Secretary of the Navy - subject, Air Defense of Pearl Harbor, Hawaii.
- 23 Memorandum dated 26 Dec. '41, Robert H. Dunlop, Col. AGD, Adjutant Genl. Hawn. Dept., to Major Brooke E. Allen, Air Corps, containing tabulation showing percentage of strength of all major echelons, post and district commanders present at 8 a.m. 7 Dec. 1941, except Kauli Dist.
- 24 Letter 12/25/41, Maxwell Murray, Major Genl. USA, to Major General Frank McCoy, supplementing General Murray's testimony before the investigating commission.
- 25 Memo. 26 Dec. '41, A.W. Meehan, Major A.C., A.C. of S., G-3, Hq. Hawn. Air Force, to Roberts Commission, showing numbers and types of aircraft for Hawaii, specified in Defense Plan; airplanes on hand 7 Dec. '41; airplanes ready for immediate use; planes on hand after raid and usable after raid; and airplanes that took to the air Dec. 7
- 26 Memorandum 25 Dec. '41 Robert H. Dunlop, Colonel, A.G.D., Adjt. General, to "Distribution 'B' and 'F' less 5 and 6" - Subject, Priority of Construction Projects
- 27 Translation of Mori conversation
- 28 Standing Operating Procedure 25th Inf. Div. dated 12/2/41
- 29 Standing Operating Procedure 24th Inf. Div. dated 27 Nov. '41
- 30 Standing Operating Procedure 24th Inf. Div. dated 1 Dec. '41
- 31 Standing Operating Procedure Hawn. C.A. dated 26 Nov. 1941
- 32 Standing Operating Procedure Hawn. Dept. dated 5 Nov. 1941
- 33 Certain inclosures (2 in number) from General Short's report, copy of which is in War Department in Washington (33-2 33-1).
- 34 Copy of letter 11/17/41 F. L. Martin, Major General USA, Commanding Air Officer to C. . Hawn. Dept. forwarding special reports concerning provisions for security of installations at Hickam and Wheeler Fields and Hawaiian Air Depot.

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- 35 "A Plan for the Employment of Long-Range Bombardment Aviation in the Defense of Oahu", F.L. Martin, Major General USA Commanding Hawaiian Air Force, to CG Army Air Forces, through CG Hawaiian Department
- 36 Statement by General Gerow before Military Commission 12-18-41.

2. Receipt of the foregoing documents is requested by indorsement hereon.

For The Judge Advocate General:

*John M. Weir*

John M. Weir,  
Colonel, J.A.G.D.,  
Executive.

OPD 311.5 Reg D (11-23-42)

1st Ind.

OPERATIONS DIVISION, WAR DEPARTMENT GENERAL STAFF, Washington, D. C.,  
November 26, 1942. TO: Office of the Judge Advocate General, War Department, Washington, D. C.

The undersigned has received the documents and papers listed in the basic letter for file in this Division.

THOS. T. HANDY,  
Major General,  
Assistant Chief of Staff.

*C. J. Leahy*

C. J. LEAHY,  
Lt. Colonel, U.S.C.,  
Custodian, Registered Documents, OPD.

SECRET


WAR DEPARTMENT  
ARMY SERVICE FORCES  
OFFICE OF THE JUDGE ADVOCATE GENERAL

26 June 1944

Memorandum:

For General Weir.

Inclosed herewith for the office file is a copy of a letter from Major General Walter C. Short, Retired, to The Adjutant General, dated June 23, 1944, in which General Short requests to be furnished with a copy of the full proceedings of the Roberts Commission.



T. H. Green,  
Brig. Gen., U.S. Army.

Incl.

To Gen Cramer

W  
+



1141 Northwestern Boulevard,  
Dallas 9, Texas.

SUBJECT: Copy of the Roberts Commission Proceedings.

TO: The Adjutant General.

1. On September 30, 1943, I signed an agreement not to plead the statute of limitations in bar of my trial by General Court-Martial in open court for any alleged offenses with which I may be charged relating to the period on or before December 7, 1941, should my trial be held during the present war or within six months thereafter.

2. In order that I may be apprised of the possible scope of the charges which may be brought against me and in order that I may make an intelligent effort to prepare my defense against such possible charges, I request that there be furnished me at this time a copy of the full proceedings of the Roberts Commission.

WALTER C. SHORT,  
Major General, U.S. Army, Retired.

WAR DEPARTMENT  
 WAR DEPARTMENT GENERAL STAFF  
 PERSONNEL DIVISION 4-1  
 WASHINGTON

WDGAP 201 Short, Walter C.

30 June 1944.

MEMORANDUM FOR THE CHIEF OF STAFF:

Subject: Request for copy of the Roberts  
 Commission Proceedings.

I. Discussion.

1. In a letter to The Adjutant General (Tab A), Major General Walter C. Short, Retired, requests that he be furnished a copy of the full proceedings of the Roberts Commission.

2. The War Department is informed that the Secretary of the Navy (Mr. Knox) several months ago furnished Admiral Kimmel a photostatic copy of the report of the Roberts Commission. The Navy Department is unable to state whether Secretary Knox obtained informal approval from the President before this action was taken.

3. The Judge Advocate General expresses the opinion that General Short is entitled to and should be furnished a copy of the report of the Roberts Commission; that the Commission was appointed by and reported to the President of the United States; and that a copy should not be furnished General Short without prior approval by the President.

II. Action recommended.

1. That the attached memorandum for the President be signed and dispatched.

2. That when the memorandum has been dispatched this file be returned to G-1 for further action.

APPROVED

By order of the Secretary of War

LESLIE MCNAUL

Adjutant General

*W. C. Short*

By *W. C. Short*

Adj. Gen. Sec. W.D.G.S.

*M. G. White*  
 M. G. WHITE,  
 Major General,  
 Assistant Chief of Staff.

JUL 4 1944



Incl. *W. C. Short*

Tab A

Draft of Memo to the  
 President for signature  
 of the S/W.

NOTED DEPUTY CHIEF OF STAFF  
*115*

*Sig Acty Secy - JWM*

JUL 24 13 0 18

## MEMORANDUM FOR THE PRESIDENT:

Major General Walter G. Short has requested that he be furnished a copy of the full proceedings of the Roberts Commission. A copy of General Short's letter is attached.

I am informed that the Navy Department, presumably with your approval, has furnished Admiral Eismal with a photostatic copy of the report. I believe that General Short is also entitled to a copy, in order to prepare his own defense, and request your approval of his request.

OK  
F. J. C.

Secretary of War.

Inclosure

114





## WAR DEPARTMENT

WASHINGTON

HEADQUARTERS, ARMY BOARD  
Munitions Building

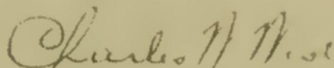
29 July 1944.

MEMORANDUM FOR THE ARMY BOARD:  
(Attention: Lt. Col. . . Kelly)Subject: Extra Photostatic Copy of Transcript of  
Testimony Before Roberts Commission.

1. It is my understanding that plans have been made to make a photostatic copy of the transcript of testimony before the Roberts Commission, the same to be furnished Major General Walter T. Short, U. S. Army, retired, in accordance with a request operative from his authority.

2. It would be desirable to have the part of the Army Pearl Harbor Board if an additional copy could be made for its use, and it is accordingly requested that one be made and transmitted to me in accordance with the billiard, when completed.

For the Board:



 CHARLES H. WEST,  
Colonel, JAG, U. S. A.,  
Recorder.


113

Date August 9, 1944

Received of The Adjutant General photostated copy of the Roberts Commission Report which investigated the attack on the Territory of Hawaii, 7 December 1941, consisting of 16 volumes of transcribed testimony and one volume of transcribed testimony of Rear Admiral *Ward*. *(No exhibits attached)*

*W. C. Short*  
WALTER C. SHORT,  
Major General,  
U. S. Army, Retired.



Section D

*[Handwritten signature]*

*[Handwritten signature]*

PHONED TO LT COL ERANA  
FEB 27 1057P/SS

1964

SIGNAL CORPS UNITED STATES ARMY  
WAR DEPARTMENT SIGNAL CENTER  
WASHINGTON, D.C.

WA2

WMU V WARG NR 9

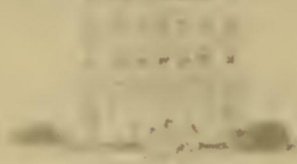
FROM ALLEN J GREER COLONEL RETIRED WUX BUFFALO NY 27 NPT  
TO JUDGE ADVOCATE GENERAL US ARMY WAR DEPT WASHDC  
GR NC BT

GENERAL WALTER SHORT TELEPHONED ME THAT YOUR REPRESENTATIVE WILL SEE  
HIM TUESDAY AND ASKED ME AS HIS COUNCIL TO SEE YOU MONDAY AM LEAVING  
HERE TONIGHT AND ARRIVING WASHINGTON MONDAY MORNING SHALL GO  
IMMEDIATELY TO YOUR OFFICE PLEASE RESERVE APPOINTMENT

SIGNAL CORPS UNITED STATES ARMY  
WAR DEPARTMENT SIGNAL CENTER  
WASHINGTON, D.C.

0203Z

HEALD EVENING NEWS



NEW YORK  
January 1, 1946

STATIONER AND PRINTING CO.  
115 N. 4th St., New York, N.Y.  
Telephone: 4-1234  
Subscription: \$5.00 per year in advance.  
Single copies: 10 cents.  
Published daily except on Sundays and legal holidays.  
Copyright, 1945, by the Heald Publishing Co., New York, N.Y.

It is my pleasure to inform you that your order for a copy of the Heald Evening News has been received and the copy is being prepared for you.

As you are well aware, the President as Commander in Chief, has the honor and the responsibility of the American people. It is his duty to see that the American people are protected from any and all threats to their safety. In this regard, the Heald Evening News has always been a loyal and patriotic voice. It is our hope that you will continue to support us in our efforts to provide you with the most accurate and complete news of the day.

Gen. Greer  
March 1, 1944  
Page 2

It must now be realized that Gen. Short was not alone responsible for the disaster of Dec. 7, but that the War, the Navy, the State Department and the President himself must share responsibility. But beyond them all the American people for not realizing the necessity for national preparedness are also responsible. The very fact that Gen. Short had such a high standard of honor made it impossible for him to suspect the treacherous attack which the Japanese made. Conditions which made such an attack possible by a friendly nation during time of peace cannot be tolerated in a civilized world and to prevent their recurrence is one of our major objectives in this war.

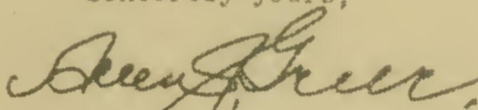
I offer the above to you as suggestions and hope they will not be considered presumptuous.

I would like even to present them personally to the President or to Mr. Cordell Hull, a former regimental comrade of Spanish War days for whom I have the most cordial respect and personal regard.

If trial takes place it will be impossible to avoid bringing in such issues as the MacArthur incident and others which will force political and not factual matters into the case with results that cannot be other than unfortunate.

I wish to thank you for your courtesy and the cordial reception of my opinions Monday. I hope I am not unduly presuming upon your time but complex situations cannot be discussed in a few words.

Sincerely yours,



Allen J. Greer, Colonel  
United States Army Retired.

AJG:ove

10 March 1944

Colonel Allen J. Greer,  
Buffalo Evening News,  
214-218 Main Street,  
Buffalo, New York.

Dear Colonel Greer:

I have delayed replying to your letter of 1 March 1944 pending the return of General Weir from his conference with General Short. General Weir took advantage of being in Dallas to inspect several judge advocate offices in that vicinity; consequently his return was somewhat delayed.

As a general proposition, General Short appears to be agreeable to the proposed taking of testimony in the manner that you and I talked over when you were in my office. General Short made one request to the effect that nothing be started before the first of April because his wife was to undergo a minor operation and he desired to wait until she had recovered from that before anything was done. That, of course, is agreeable to the War Department.

I note the suggestions made in your letter. Of course any such suggestions will have to await further consideration of the matter.

Very sincerely yours,

Myron G. Cramer,  
Major General,  
The Judge Advocate General.

MGC:mb



*To Col Hughes*  
*RMS*  
 CONFIDENTIAL

Telephone conversation between General Weir  
 and Colonel Springer, 4 March 1944

Weir: Now with reference to the case up there - remember? Tell General Cramer that he wants Tom as active service and as the JA counsel.

Springer: Wait just a minute - he wants Tom as - What?

Weir: Active service - on active duty. In other words he has a retired officer. He also would want a JA and someone on active duty. He would like to have Tom.

Springer: Tom, right here.

Weir: Yeah. As well as Colonel Greer, retired. Greer is about 67, 68, if I recall it. He wants officers on the court who would be senior to him as of the time in question. In other words he doesn't want any temporary lieutenant generals or someone like that who are way junior to him now - junior to him on the Regular list, on any court. He'll have civilian counsel at the time in question. He has not yet employed counsel but he intends to. He's all for this investigation of course as I told General Cramer yesterday, but he doesn't want to start on anything before the first of April. His wife is to be operated on in the hospital in Dallas sometime the forepart of this month and it will be a couple of weeks probably before he'll want to begin on that. Of course he wants the testimony preserved but as I told General Cramer these depositions, or whatever we're going to call them, should be used only if the witness is not alive or available at the time. One of his principal witnesses and probably a principal witness on both sides, is now dead, so we've lost that man's testimony - get it?

Springer: Yes, I got that all right. John, General Cramer said when I talked to you to ask you if Morse and Dainow were still to go up to the conference?

Weir: Well I had planned to have Dainow up there to the conference to edit the -

Springer: We'll, that's what I figured so I told him to count on it.

Weir: It's not dreadfully important about Morse - I thought Morse would have an opportunity to see the people up there and check on their library so he wouldn't have to make those trips all over the west.

Springer: Well he's made most of his trips hasn't he?

Weir: He's made a couple but he hasn't gone very far west. You might check with him on that. I'm checking here with people as I go along. Jones will be there.

Springer: Is Jones getting his own orders?

Weir: Wait a minute - he's getting his own orders and they've been

CONFIDENTIAL

approved here so he'll be there. Now what's the dope on the  
conference - everything going along all right?

3141 SOUTHWESTERN BOULEVARD,  
Dallas 5, Texas, Feb. 29, 1944.

Subject: Detail of Colonel Allen J. Greer, U. S. Army, Retired as Counsel.  
To: The Adjutant General, Washington, D. C.

1. I request that Colonel Allen J. Greer, U. S. Army, Retired be detailed to act as my counsel in any court-martial that may take place as a result of the attack of the Japanese on Pearl Harbor, T. H.

2. I request that Colonel Greer be placed on active duty at once to represent me and to assist in the preparation of depositions to be taken in the case, accompanying the officer detailed by the War Department to prepare and take the deposition. As a preliminary to this work I request that Colonel Greer be directed to report to me and go over with me the preparation of the interrogatories of the witnesses for the defense.

WALTER C. SHORT,  
Major General, U. S. Army, Retired.

---

3141 SOUTHWESTERN BOULEVARD,  
Dallas, 5, Texas, March 22, 1944.

Subject: Testimony of witnesses with knowledge of the attack on Pearl Harbor.  
To: The Judge Advocate General, U. S. Army.

Recently I was interviewed by Brigadier General John M. Weir, J. A. G. D., at my home in Dallas, Texas. Among other things General Weir informed me that the Secretary of the Navy had appointed Admiral Hart to take testimony of witnesses who had knowledge of the attack on Pearl Harbor and record their testimony in order that it might be preserved against the possibility of the trial of Admiral H. E. Kimmel in the future. He stated that the Secretary of War contemplated taking similar action in my case and that the War Department desired an expression of my views on the matter. In reply I stated that I desired to cooperate with the War Department to the fullest extent consistent with the protection of my rights, and that while I concurred, in principle, with the proposal to perpetuate the testimony I believed myself entitled to such stipulations as might be necessary to safeguard my rights.

Since my interview with General Weir I have given further consideration to the matter. I am sure that there is no intention on the part of the War Department to place me in the position of being compelled to release any rights I may have in the premises.

In this connection I believe that before the commencement of any proceedings to which I am to be a party it would be only fair and just that I be apprised of the basis of the proceedings, their scope, the use to which the records may be put and such other details as will permit me to save my rights. I believe it would be a relatively simple matter to make an agreement as to those details and that such an agreement would insure that the proceedings will be disposed of in an orderly and efficient manner. It seems to me that some such agreement is so essential to the safeguarding of my rights that I would be compelled in self-defense to insist on it as a condition precedent to my participation in the proposed proceedings. If, therefore, the War Department decides to proceed with the perpetuation of the testimony in my case as contemplated, I would appreciate being informed before the commencement of the proceedings as to the views of the War Department on this point.

In a letter which I handed to General Weir I asked that in the event proceedings were begun Colonel Allen J. Greer, Retired, be made available to me as counsel. I reiterate that request. I stated informally to General Weir that I would like to have Brigadier General T. H. Green, J. A. G. D., as my counsel under the same circumstances providing he was willing to serve in that capacity. This latter request is now reduced to writing.

WALTER C. SHORT,  
Major General, U. S. Army, Retired.







WAR DEPARTMENT  
ARMY SERVICE FORCES

**CONFIDENTIAL**

TO	The Adjutant General Adjutant General Adjutant General
FROM	The Adjutant General Adjutant General Adjutant General
SUBJECT	O-M 201 Summary Report G, (M, S, H)

and re

*[Handwritten Signature]*

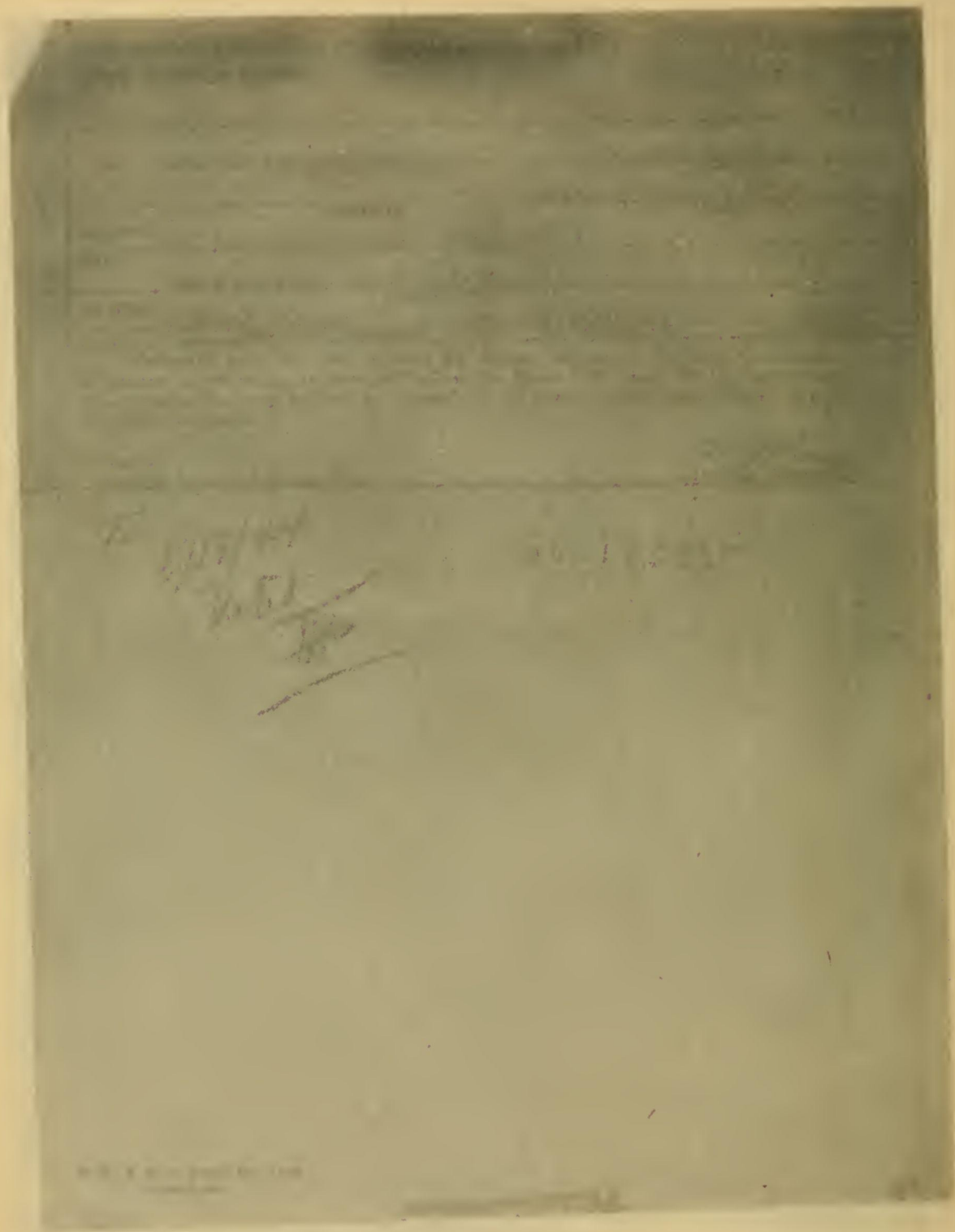
To: The Adjutant General.

1. General Green is the senior Assistant Judge Advocate General on duty in my office and is normally in charge during my absence. In view of the importance of the case in question I am willing to have him available as counsel for General Short provided it will not unduly interfere with the performance of his present duties.

2. I recommend that the basic request be approved and that it be noted that the detail of General Green be in the file.

*[Handwritten Signature]*  
The Adjutant General

**CONFIDENTIAL**



C  
O  
P  
Y

AGPO-M 201 Short, Walter C.  
(24 Jul 44)

1st Ind.

ACX/ab/2446

WD, AGO, Washington 25, D. C., 9 August 1944.

TO: Major General Walter C. Short, U. S. Army, Retired, 3141 Southwestern  
Boulevard, Dallas 5, Texas.

Approved provided it will not unduly interfere with Brigadier General  
Green's present duties. This approval is given with the express understanding  
that the detail will be in addition to his other duties.

By order of the Secretary of War:

J. A. ULIO,  
Major General,  
The Adjutant General.

*Encl. 1*

CONFIDENTIAL

87

## Section E

REPORT OF NAVY PRESS CONFERENCE  
 FEBRUARY 25 FEBRUARY 1944

REC'D NEWS DIV

FEB 26 1944

PLEASE PAY SPECIAL ATTENTION TO OFF THE RECORD STATEMENTS

Secretary Knox announced that the United States Task Force which struck Saipan and Tinian Islands had destroyed 135 enemy planes in the air and on the ground with the loss of but six of our planes. In addition two ships were sunk and nine others damaged.

Although the United States force was detected by the enemy while approaching the islands on February 21 and attacked by enemy land-based planes for nearly two days, not one of our ships was sunk or even damaged. Enemy installations were bombed and strafed by planes from our carriers. On February 23, Liberators of the 7th Army Air Force took part in the bombing of Kusaie, and on the same day other planes participated with Navy planes in bombing four enemy-held atolls in the Marshalls.

In commenting upon the report from the Pacific Fleet Headquarters, Secretary Knox said that the amazing thing was the heavy damage our pilots had inflicted on enemy aircraft with such small loss to themselves. Further, he said, despite the two-day attack by enemy torpedo planes and bombers on our forces, apparently not a single ship had been hit.

In response to a question, he said that reports he had received indicated that the Japanese have improved their planes, but the quality of their pilots is deteriorating.

The Secretary announced that Admiral T. C. Hart had been assigned to collect testimony from Navy officers concerning the Japanese attack on Pearl Harbor for use at the court martial of Admiral Kimmel and General Short. He said that this was being done because many of the officers were scattered throughout the world and many were engaged in hazardous duties. He said that it was "an attempt to be absolutely square with Admiral Kimmel" and that the testimony should be taken by a high ranking officer in whom both the accused and the Navy Department had confidence. He explained there was no change in the decision to postpone the court martial until after the "war situation had subsided and the trial can be held safely."

When asked whether this action was being taken in conjunction with similar action by the War Department, he replied that it was not and that he did not know whether the Army would take like steps or not.

Vice Admiral Ben Moreel, Chief, Bureau of Yards and Docks, attended the conference and reported briefly on the work of the Seabees in the Pacific area which he had toured recently with Under Secretary Forrestal. He said there were about 100,000 men in the Pacific construction battalions and they were doing excellent work in repairing damage to captured installations as well as building new bases. One of the mistakes the Japs have made, he said, was to underestimate the speed with which Americans could restore bases and repair damage. Not only were the Seabees far superior to the Japanese in skill but also in the supply of construction equipment. He said the Seabees Special, or the stevedore detachments, were doing an outstanding job.

END

ALT/j's  
 Press Branch  
 Bureau of Public Relations

37



Extract from Transcript of Press Conference of Secretary of War  
Held at 10:30 A.M., Thursday, March 2, 1944.

PRESS:

Is the War Department planning to record the testimony of officers who may be later unavailable who have knowledge of events for use in the case of Major General Walter C. Short, as announced by the Navy?

SECRETARY:

The War Department is working in full cooperation with the Navy Department in assembling such testimony.

PRESS:

~~Is it true that the Joint Chiefs of Staff are studying a plan for the formation of a Department of National Defense, and if so, will that be put into effect before the close of the present war?~~

SECRETARY:

~~I am told there was an interesting story in the newspapers on that subject, but I have no comment to make on it.~~

PRESS:

Does your reply to the previous question mean that you are taking testimony?

SECRETARY:

Yes, I understand so. We are taking steps to preserve that evidence, which means that we must be taking testimony.

GENERAL SURLS:

Yes, we are working with the Navy Department.

PRESS:

Could you say who is taking that testimony?

SECRETARY:

I think that is a matter which is usually not discussed in public—a lawyer perhaps.

PRESS:

I think the reason the question was asked is because the Navy Department announced that Admiral Hart would be the officer in charge of assembling the testimony in the Navy. We wondered if you had designated a specific officer for that.

SECRETARY:

I can't answer that. I didn't know that Admiral Hart had been appointed. My information was just as I put it, that we are acting with the Navy to preserve that testimony.

2141 Southwestern Boulevard,  
Dallas, 5, Texas, July 18, 1944.

Subject: Detail of officers as observers with the board of officers investigating the Japanese Attack of December 7, 1941.

To : The Adjutant General, U. S. Army.

1. At the request of the War Department, on September 29, 1943, I signed an agreement not to plead the statute of limitations in bar of my trial by General Court-Martial in open court for any alleged offenses with which I may be charged relating to the period on or before December 7, 1941, should the trial be held during the present war or within six months thereafter. I understand that in accordance with a recent act of Congress, the War Department is under consideration the appointment of a board of officers for the purpose of investigating and reporting the facts concerning the attack by the Japanese upon the Territory of Hawaii on December 7, 1941.

2. I am now and always have been willing to face a court-martial or a court of inquiry at the earliest possible moment to answer for any deficiencies implied or alleged against me for which apparently I was summarily relieved from command. It is my assumption that the proposed board is being convened for the purpose of determining any and all alleged improper acts or omissions on my part on or before December 7, 1941. In order to expedite any future trial, I herewith request that I be permitted to have sit with the Board at the examination of all witnesses two officers of my selection, to represent me at such hearings as well as to cross-examine all witnesses appearing before the Board. I desire to point out that in the event of my being required to meet any future resultant charges this privilege will greatly abridge the time necessary adequately to prepare my defense. I desire to point out also that such representation will assist in bringing to light more clearly my position and the situation prior to and on December 7, 1941, and thus present a more complete picture to the Board and the Secretary of War. It is urged that this request be granted in fairness to the undersigned as well as to the United States, as in the end it should result in the saving of time for all concerned.

3. If the above-mentioned request is granted I shall be glad to submit the names of the officers whom I desire to represent me.

*Walter C. Short*  
Walter C. Short,  
Major General, U. S. Army, Retired.

(1)

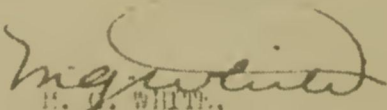
WAR DEPARTMENT  
WAR DEPARTMENT GENERAL STAFF  
PERSONNEL DIVISION G-1  
WASHINGTON

WAGAP 201 Short, Walter C.

21 July 1944

MEMORANDUM FOR LT. GEN. GEORGE GRUNERT, USA,  
President, Pearl Harbor Investigation Board, directed by  
Public Law 337, 76th Congress.

The request of Major General Walter C. Short,  
USA Retired, contained in the attached memorandum for The  
Adjutant General, dated 18 July 1944, is referred to your  
board for remark and recommendation in consultation with  
the Office of The Judge Advocate General.

  
H. G. WHITE,  
Major General,  
Assistant Chief of Staff.

Encl.

Memo to TAG (18 Jul 44)  
fr Gen Short.



1st Memo Ind.

201-SHORT, Walter C.  
Headquarters Army Pearl Harbor Board, Munitions Building, Washington, D.C.,  
26 July 1944.

To: The Assistant Chief of Staff, G-1, War Department.

1. Following consultation with the Office of The Judge Advocate General the Board has considered the various factors involved and concluded that the request of Major General Walter C. Short, U. S. Army, Retired, that he be permitted to have sit with the Board at the examination of all witnesses two officers of his selection, to represent him at such hearings as well as to cross-examine all witnesses appearing before the Board, should be denied.

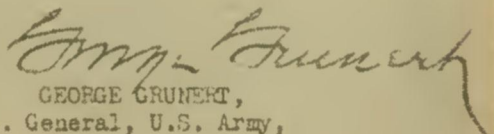
2. Although it is recognized that certain advantages might be gained were the request granted, it is believed that such a course of action would also entail numerous undesirable consequences, a consideration of which suggests the advisability of not permitting the requested procedure.

3. In this connection it is pertinent to note that the Board is merely a fact finding agency of the War Department, and not initially charged with an investigation of any specific alleged acts of commission or omission on the part of Major General Short or any other individual in the military service. However, should substantial evidence of such acts be adduced, the Board contemplates affording an early opportunity to the individual or individuals concerned to appear before it, with or without counsel, and to testify, call witnesses, and offer anything that may be desired in his or their behalf. The Board also contemplates permitting such person or persons again to appear after all other evidence has been adduced, to offer anything further that may be desired in his or their behalf.

4. It appears proper to point out that in the event formal charges should result from the Board's investigation, any accused person must also under Article of War 70, be afforded further opportunity fully to present his case prior to any subsequent trial on such charges.

5. It is recommended that Major General Short be advised accordingly.

For the Board:

  
GEORGE GRUNERT,  
Lt. General, U.S. Army,  
President.

Incl.

Copy of Memo fm  
Gen. Short w/d

ACK/ab/2446

AGPO-M-F ~~W.C.~~ Short, Walter C.  
(18 Jul 44)

3 August 1944.

Detail of Officers as Observers with the Board of Officers Investigating the Japanese Attack of December 7, 1941

THRU : Commanding General,

Eighth Service Command.

TO : Major General Walter C. Short, U. S. Army, Retired,  
2141 Southwestern Boulevard,  
Dallas 5, Texas.

1. Your letter of 18 July 1944, Subject: "Detail of officers as observers with the board of officers investigating the Japanese Attack of December 7, 1941," is acknowledged. Although it is recognized that certain advantages might be gained were the request granted, it is believed that such a course of action would also entail numerous undesirable consequences, a consideration of which suggests the advisability of not permitting the requested procedure.

2. In this connection it is pertinent to note that the Board is merely a fact finding agency of the War Department, and not initially charged with an investigation of any specific alleged acts of commission or omission on the part of any individual in the military service. However, should substantial evidence of such acts be adduced, the Board contemplates affording an early opportunity to the individual or individuals concerned to appear before it, with or without counsel, and to testify, call witnesses, and offer anything that may be desired in his or their behalf. The Board also contemplates permitting such person or persons again to appear after all other evidence has been adduced, to offer anything further that may be desired in his or their behalf.

3. It appears proper to point out that in the event formal charges should result from the Board's investigation, any accused person must also under Article of War 70, be afforded further opportunity fully to present his case prior to any subsequent trial on such charges. Consequently, your request that you be permitted to designate two officers of your selection to represent you at hearings before the Board of Officers appointed under the Provisions of Public Law 339, 78th Congress, is denied.

By order of the Secretary of War:

to Aug 44  
**FILE**

MINCL. SERV. DIV.

Taylor 2446

J. A. ULIO,  
Major General,  
The Adjutant General.

(S: 3 Aug 44)

N.K./60/2444

WAR DEPARTMENT—OFFICIAL BUSINESS

OUTGOING CLASSIFIED MESSAGE

Office of origin Mil Pers Officers' Miscellaneous SPXPO-M Date 2 August 1944  
(Division, branch, section, and symbol)  
AGPO-M 203 Short, Walter G. (2 Aug 44) Telephone 78973  
(Originating office)  
Classification Confidential Precedence Routine  
(Restricted—Confidential—Secret) (Deferred—Routine—Priority—Urgent)

To: COMMANDING GENERAL NINTH SERVICE COMMAND

TRANSMIT FOLLOWING TO MAJOR GENERAL WALTER C SHORT US ARMY RETIRED QUOTE  
 ARMY PEARL HARBOR BOARD CONTEMPLATES CALLING YOU AS A WITNESS IN WASHINGTON  
 DC COMMENCING THURSDAY AUGUST TENTH STOP THE BOARD INVITES YOU TO FURNISH  
 IT BY AIR MAIL AT ONCE ROOM FOUR SEVEN FOUR THREE MUNITIONS BUILDING A  
 SUGGESTED LIST OF WITNESSES WHICH IN YOUR OPINION HAVE KNOWLEDGE OF FACTS  
 BEARING UPON THE INVESTIGATION STOP YOUR REQUEST FOR COPY ROBERTS COMMISSION  
 REPORT APPROVED STOP ANTICIPATED PHOTOSTATIC COPY SAME WILL BE COMPLETED  
 AND AVAILABLE UPON YOUR ARRIVAL WASHINGTON STOP OTHER REQUESTS REGARDING  
 COUNSEL BEING CONSIDERED REQUEST YOU ACKNOWLEDGE RECEIPT OF THIS RADIOGRAM  
 SPXPO DASH M AND INFORM THIS OFFICE WHEN LIST OF WITNESSES MAY BE EXPECTED  
 UNQUOTE

ULIO THE ADJUTANT GENERAL

OFFICIAL  
 Content and classification  
 authenticated by

*CCG/4-44*  
*R. J. ...*  
 ADJUTANT GENERAL

DISTRIBUTION:  
 Classified Message Center.  
 Secretary, General Staff.  
 Operations Div, WDGS.  
 Army Pearl Harbor Board, Rm 4743 Munitions.

W. D., A. G. O. Form No. 500  
 September 1, 1943

50-4720-1 U. S. GOVERNMENT PRINTING OFFICE

100



WAR DEPARTMENT  
CLASSIFIED MESSAGE CENTER  
INCOMING CLASSIFIED MESSAGE

*(Handwritten)*  
201 Street, Water C. 11/11

**FILE**  
Bostely - 244  
11/11/11

✓	D. MAI
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	OMG
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Copies of classified messages to be accounted for

COPY NO.

18  
109

THE MAKING OF AN EXACT COPY OF THIS MESSAGE IS FORBIDDEN



INDIVIDUAL ACTION SHEET

From: 1st Lt. Branch (Branch number) 2446 (Serial number)
To: 1st Lt. Branch, ARMY (Branch or division) 4743 (Serial number) Unit

Remarks or Indorsements:

For remark.

1 Incl.
Mar. 17 Aug 44.

Handwritten signature of Major E. Smith

MAJOR E. SMITH
MAJOR A.G.D.

Handwritten signature of Chief, Staff

1st Ind.

Headquarters Army Pearl Harbor Board, Rm 4743, Munitions Building, Washington, D.C.
15 August 1944.

TO: The Adjutant General.

As to General Short's requests, the following is recommended:

- a. That his request to be furnished with a copy of his testimony before the Board be granted.
b. That his request that he immediately be furnished a copy of the testimony taken to date by the Board and that hereafter he be furnished with a copy of the remainder of the testimony from day to day as it is taken, be denied.

The Board does not believe it wise to grant these requests because of the danger of publicity, the granting to one witness what is denied to others, and the possible jumping to conclusions as to the Board's report before all evidence has been received, sifted and conclusions thereon reached. However, the Board has no objection to having General Short or his advisor, General Green, at the Board's headquarters peruse and study the record of testimony taken now and when the Board returns to Washington prior to a rehearing of General Short.

(Over)

CONFIDENTIAL

Handwritten initials

106

CONFIDENTIAL

W. D. A. G. O. Form No. 0164-1  
January 5, 1938

1. Use both sides (bottom turned up)
2. Except for initial letters, with names, dates and numerical results, with telephone and room number after the signature or initials.
3. A line drawn across the sheet covers such action.
4. Carbon record copy made of all important actions.

INSTRUCTIONS

The report from General Short or his adjutant, General Green, have  
 been reviewed by the committee in relation to the Pearl Harbor attack.  
 However, their names are not mentioned in the report and the committee has no further  
 action to take with the report.

for the record:

*Jimmy Stewart*  
 Lt. Gen., U. S. Army,  
 President.

1. (1)  
 (2) (3) (4) (5)

(S: 19 AUG 44)  
 WJK/ab/244b

2277b

From: Officers Branch HQ      km 2441      Munitions      78978  
 To: The Judge Advocate General      km 2715      Munitions

for remark.

1. (1) (2) (3) (4) (5)

*J. P. ...*  
 Chief, ...

CONFIDENTIAL

SPJGS 1344/8838  
 No. ANP, J.A.G.O.,

Ref Ind.

77338

To: The Adjutant General, Attention: Officers Branch, Room 2448,  
 Munitions Building, Washington 25, D. C.

I cannot see where any harm will be done by giving General Short a copy of the testimony already taken, less exhibits, and, from now on, the day to day stenographic transcript. As to the danger of publicity, after all, he has already been furnished a copy of the full Robert's Report containing the stenographic transcript, etc. Also, giving General Short the day to day transcript will serve to keep him currently advised of the testimony, which will enable him to prepare in advance his own testimony in answer thereto if he wishes to offer such testimony. This will avoid the delay which would be caused at the end of the case by being compelled to allow General Short additional time to read over the voluminous record preparatory to his possible reappearance before the Board and the possible production of witnesses on his behalf. The closing of the entire case and the filing of the Board's report at the earliest possible moment is, of course, of the utmost importance.

MYRON C. CRAMER

Myron C. Cramer,  
 Major General,  
 The Judge Advocate General.

*W. J. J.*

Pughos, W. J., Jr., -rm/vmf

All notes and rough drafts have been  
 destroyed.

Custodian EP  
 Disinterested officer \_\_\_\_\_

**CONFIDENTIAL**  
 WAR DEPARTMENT GENERAL STAFF  
 DISPOSITION FORM  
 PERSONNEL DIVISION, G-1

File: WDGAP 201 Short, Walter C.

Date: 20 August 1944.

SUBJECT: General Officer.

TO	<input checked="" type="checkbox"/> C/S	<input type="checkbox"/> S/W	<input type="checkbox"/> USW	<input type="checkbox"/> ASW	<input type="checkbox"/> ASWA	<input type="checkbox"/> CG
	<input checked="" type="checkbox"/> TAG	<input type="checkbox"/> G-2	<input type="checkbox"/> G-3	<input type="checkbox"/> G-4	<input type="checkbox"/> OPD	<input type="checkbox"/> CG
	<input type="checkbox"/> QMG	<input type="checkbox"/> JAG	<input type="checkbox"/> SO	<input type="checkbox"/> IG	<input type="checkbox"/> L&LD	<input type="checkbox"/> CG
(Through Office Chief of Staff)						
FOR	<input checked="" type="checkbox"/> S/W directs	<input type="checkbox"/> Comment or Concurrence				<input type="checkbox"/> Necessary action
	<input type="checkbox"/> Draft of reply	<input type="checkbox"/> Remark and recommendation				<input type="checkbox"/> Information
	<input type="checkbox"/> Direct reply	<input type="checkbox"/> Information for reply				<input type="checkbox"/> Primary interest
	<input type="checkbox"/> Approved	<input type="checkbox"/> And return to G-1				<input type="checkbox"/> File
	<input type="checkbox"/> Disapproved					

I. That the request of Major General Walter C. Short is approved, as concurred in by the TJAG, in the second indorsement.

II. That all concerned be advised accordingly.

For the Assistant Chief of Staff, G-1:

AGO  
 62 AUG 1944  
 Received  
 PO-1

*G. B. Walker, Jr.*  
 G. B. WALKER, JR.  
 Lt. Col. U. S. G.  
 Assistant Executive

Incl.

Informal action sheet  
 fr AGO to G-1, 18 Aug 44,  
 w/incl.

**MEMORANDUM FOR RECORD:** In the attached letter, General Short requests to be furnished with a copy of his testimony before the Pearl Harbor Board; a copy of the testimony taken to date by the Board; and that hereafter he be furnished with a copy of the remainder of the testimony from day to day as it is taken. He also requests access to all the exhibits from time to time. The President of the Board recommends that General Short's request to be furnished with a copy of the testimony taken to date by the Board and that hereafter he be furnished with a copy of the remainder of the testimony from day to day as it is taken, be denied. TJAG concurs in General Short's request.

AUG 22 1944  
 NOTED-DEPUTY CHIEF OF STAFF  
*Walt*

CONFIDENTIAL

201 Short, Walter C. Major General  
 (20 Aug 44)

104



WAR DEPARTMENT  
Room 1844, Munitions Building,  
Washington

11 August 1944.

SUBJECT: Request for Copy of Testimony Given Before the Board of Officers.

TO: The Adjutant General of the Army.

1. On appearing this morning before the special Board of Officers holding a hearing in connection with the investigation of the facts surrounding the attack on Pearl Harbor on December 7, 1941, I requested to be furnished with a copy of my testimony before the Board as soon as practicable and likewise requested that I be provided with a copy of all of the testimony taken by the Board before the Board proceedings are concluded. I made these requests for the purpose of examining and reviewing the same so that if any supplementary or explanatory statements were desirable I might have the further opportunity of presenting them in order that the said Board might have the full advantage of my intimate knowledge of the facts as they existed at that time. The Chairman of the Board stated that my requests were of such a nature that they should be decided by the War Department and suggested that I make direct application concerning the same.

2. Accordingly, I request that as soon as practicable I be furnished with a copy of my testimony before the Board. I request also that immediately I be furnished a copy of the testimony taken to date by the Board and that hereafter I be furnished with a copy of the remainder of the testimony from day to day as it is taken. I also request access to all of the exhibits from time to time. The Board appears to have three reporters for the purpose of expediting the transcribing of the testimony and I believe approval of my requests would present no administrative difficulty.

3. In order to expedite matters, I request that these copies be given to Brigadier General T. H. Green, 2056 Munitions Building, who will forward same to me wherever I happen to be.

/s/ Walter C. Short  
/w/ WALTER C. SHORT,  
Major General, U. S. Army.

CONFIDENTIAL

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44/8535-1

AGFC-157 Maj Short, Walter C.  
(11 Aug 44)

1st Ind.

AGC/ab/2646

WD, AGO, Washington 25, D. C., 24 August 1944.

THRU: Brigadier General T. M. Green, in 8036, Munitions Bldg, Washington 25,  
D. C.

TO : Major General Walter C. Short, U. S. Army, Retired.

The request of Major General Walter C. Short, U. S. Army, Retired, to be furnished with a copy of the testimony taken to date by the Army Pearl Harbor Board, less exhibits, and that hereafter he be furnished with a copy of the remainder of the testimony from day to day as it is taken, is approved.

By order of the Secretary of War:

J. A. ULIO  
J. A. ULIO,  
Major General,  
The Adjutant General.

Copy for, TJAG, re 2nd Ind, SPJGJ 1944/8535 NJH, Jr. 77535  
17 Aug 44. stating that no harm can be seen in furnishing  
Maj Gen Short a copy of the testimony already taken, and  
day to day stenographic transcript.

GWS

84

CONFIDENTIAL

3141 Southwestern Boulevard,  
Dallas 5, Texas.

August 31, 1944

**SUBJECT:** Synopsis of Testimony taken before the Army  
Pearl Harbor Board.**TO:** The Adjutant General of the Army.

1. Reference is made to 1st Indorsement, W.D., A.G.O., Washington 25, D.C., to Major General Walter C. Short, U.S. Army, Retired (A.G.P.O.-N-Y 201 Short, Walter C. (11 Aug 44), dated 24 August 1944, in which I was informed of the approval of my request to be furnished a copy of testimony taken before the Army Pearl Harbor Board.

2. It would greatly facilitate matters if I was furnished with copies of the synopses of testimony being prepared by the Army Pearl Harbor Board for its use. I therefore request that in addition to full transcript of the testimony there be furnished me at this time a copy of the synopses of testimony already prepared for use by the Board and that I be furnished with copies of the future synopses as and when they are prepared.

3. As there will be a large amount of testimony for me to examine and as time is of the essence I request that action on this request be expedited as much as practicable.

4. In order to expedite matters I request that the copies of synopses be delivered to my counsel, Brigadier General T. H. Green, 2036 Munitions Building, who will forward them to me.

Walter C. Short,  
Major General, U.S. Army, Retired.





## IMMEDIATE ACTION

AGPO-M 201 Short, Walter C.  
(31 Aug 44)

1st Ind.

ACK/ab/2446  
(3: 21 Sep 44)

WD, AGO, Washington 25, D. C., 1 September 1944.

TO: President, Army Pearl Harbor Board, Bldg 36, Presidio of San Francisco, San Francisco, Calif.

For remark.

By order of the Secretary of War:

J. A. ULID,  
Major General,  
The Adjutant General.

AGPO-M 201 Short, Walter C. 2nd Ind.  
Army Pearl Harbor Board, 20 September 1944.

GG 4th

To: The Adjutant General, U.S. Army, Washington, D.C.

1. The analyses referred to are not as yet the official record of the Board and will not be until verified and accepted in whole or in part. At present they merely are work sheets being compiled by officers loaned to assist the Board.

2. Further, there is but one complete copy of the analysis sheets referred to and the Board will need this copy for study until it completes its report, whereupon that copy may or may not become a permanent part of the record. Nor can that copy, of which there are between four and five hundred sheets, be spared by the Board to have copies thereof made.

3. Hence disapproval of General Short's request now, or in the future, is recommended.

For the Board:

45 AGO  
SEP 28 1944  
Rec'd Back

*J.O.*  
*10/2/44*

*George Gruent*  
GEORGE GRUENT,  
Lt. Gen., U. S. A.  
President.

*Let [unclear] [unclear] [unclear]*

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(31 \_\_\_\_\_ 44)

KBB/ACK/ab 25 September 1944

The Judge Advocate General

25 Sep 44

Synopsis of Testimony taken before the  
Army Pearl Harbor Board.AGPO-M 201 Short, Walter C.  
(31 Aug 44)  
78978

Officers Br. AOD Rm 2441 Munitions

For review and recommendation. The original correspondence with  
two indorsements has not as yet reached this office.

1 Incl.

Oy. ltr. 31 Aug 44, w/2 Incls.

K. B. HUSH, COL, AOD,  
Chief, Officers Branch.

SPJGJ 1944/8538

To: The Adjutant General. Attention: Officer's Branch, Room 1080,  
Munitions Building.

As it appears from second indorsement from the Pearl Harbor Board to  
The Adjutant General, dated 20 September 1944, that the synopses of  
testimony requested by General Short in the basic communication are not  
yet completed and at the present time are merely worksheds which do not  
in any way constitute the official action of the Board and as, in any  
event, the Board states it can not at the present time spare these  
papers, it is recommended that General Short be advised that the  
requested synopsis can not under the circumstances be furnished him.

For The Judge Advocate General:

R. E. Kunkel,  
Colonel, J.A.G.D.,  
Chief, Military Justice Division.

1 Incl.  
n/s

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CONFIDENTIAL

AGPO-M 201 Short, Walter C.  
(31 Aug 44)

1st Ind.

AGP/cb/2046

WD, AGO, Washington 25, D. C., 4 October 1944.

FROM: Brigadier General T. H. Green, U. S. Army, Rm 2036, Munitions Building, Washington 25, D. C.

TO : Major General Walter C. Short, U. S. Army, Retired.

The synopsis of testimony requested in the basic communication are not yet completed and are merely worksheets which do not in any way constitute the official action of the Board and as the Board can not at the present time spare these papers, the requested synopsis can not under the circumstances be furnished.

By order of the Secretary of War:

J. A. ULIO

J. A. ULIO,  
Major General,  
The Adjutant General.

*ASW*  
*OK*  
OFF. BR. \_\_\_\_\_ 78978

DISTRIBUTION:

C-1 "DGS, Rm 2K925

The Judge Advocate General, re  
Transmittal Sheet, 28 Sep 44, SPJGJ 1944/8535.

Pres. Army Fear Harbor Board, Bldg 36, Presidip  
San Francisco, San Francisco, Calif. re 2nd Ind.  
20 Sep 44, AGPO-M 201 Short, Walter C., GG

Brigadier General T. H. Green U. S. Army, Rm 2036  
Munitions Bldg, Washington 25, D. C.

**FILE**  
*Boutsky 4/16*  
*4/16/44*

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*ccm*

46

**CONFIDENTIAL**

OCS  
PMcC  
3542  
vhc

WCSBA 201 Short, W.C.  
(2 Oct 44)

October 3, 1944

MEMORANDUM FOR GENERAL GRUNERT:

Enclosed is a copy of a letter dated September 29, 1944, signed by Major General Walter C. Short, Retired, along with a reply to General Short which has been signed by the Secretary of War.

The Secretary of War directs that these be forwarded for appropriate action by your Board.

JOSEPH T. McNARNEY  
Lieutenant General, U. S. Army  
Deputy Chief of Staff

*3 sup*  
*pr-9*  
Enc.



COPY FOR  
THE ADJUTANT GENERAL

**CONFIDENTIAL**

**FILE**  
*6712/44*  
*5442*  
*6/12/44*  
*100*



~~SECRET~~

CONFIDENTIAL

3141 Southwestern Boulevard,  
Dallas 5, Texas,September 29, 1944.Honorable Henry L. Stinson,  
Secretary of War,  
Washington, D.C.

Dear Mr. Secretary:

The testimony which was taken before the so-called Roberts Commission and that currently being taken in the hearing now pending before the Army Pearl Harbor Board was recently made available to me. Upon examining these records, to which none of the exhibits have been attached, I fail to find a disclosure of certain vital information which high Washington officials appear to have had prior to December 7, 1941, of the imminence of an attack by the Japanese. Such information was not made available to me in the exercise of my command in the Hawaiian Islands. As I understand that the Army Pearl Harbor Board is now about to complete its hearings and since this important factual data is not included in the testimony of the Board thus far furnished to me, I feel compelled to call this matter to your attention.

From statements in the records of these two hearings, it is to be noted that a knowledge of pertinent facts which are not later disclosed in the record is inferred. This important factual information is essential to a full appraisal of the situation. I specifically refer to the following instances: On pages 318 and 319 of the testimony taken before the Roberts Commission the questions asked by Justice Roberts indicate that as chairman of the commission he was in possession of facts of the utmost importance to this case which pointed to a definite warning of an attack against Pearl Harbor which apparently was known to officials in Washington from certain intercepted Japanese code messages. So far as I have been able to learn these facts are not a part of the record of these hearings.

Again in the testimony of Admiral Kimmel before the Army Pearl Harbor Board (Vol. III, page 1811) it is clearly indicated that certain vital information was in the hands of the War and Navy Departments regarding the imminence of an attack, which information was certainly not transmitted to me. The information upon which he based this statement is likewise not a part of the record of the hearings. Without a doubt he would not have made such a statement if he did not have evidence to support it.

It is also respectfully pointed out that General Marshall had some important information on which he relied at the time he

Classified  
of TAG. *OKS**9-29-44*  
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CONFIDENTIAL

sent me the coded telegram (referred to at Vol. IV, page 309, of Pearl Harbor Board testimony) under date of December 7, 1941, which unfortunately did not reach me until seven hours after the attack. The information upon which General Marshall must have relied in sending this message likewise does not appear in the record before the Board thus far furnished me.

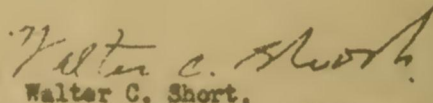
The facts upon which these actions and statements were based clearly go to the very essence of the present inquiry. I believe, therefore, you will readily agree that a full and complete disclosure of all the information which was in the hands of Washington officials prior to December 7, 1941, with regard to the imminence of an attack, should be obtained and made a matter of record in the proceedings of the current investigation as they are of the utmost importance in appraising this entire situation.

As the perfecting of the record in this investigation is of course of great importance to me personally, I urge that no steps be left unturned to make a complete investigation of the same, so that all of the evidence concerning this matter is in the record of the hearings of the Board. It is therefore urgently requested that the Board delay the completion of its proceedings until such time as this can be accomplished. In this connection I request also that my counsel be given access to all War Department records which would be pertinent to this matter.

Furthermore, if a thorough investigation of the War Department records by the Board and by my counsel do not disclose the facts and evidence upon which the statements and actions above referred to were made, I request that an appropriate call be made upon any other source which might have such pertinent information, particularly the Navy Department, and that they be required to furnish and make all such evidence available to the Board and to my counsel.

The War Department has denied my request to have a representative at the Board proceedings and to cross-examine witnesses and therefore unless my request herein is granted there is no means available to me by which I may be assured that all the pertinent evidence will be made available to the Board and to me.

Sincerely,



Walter C. Short,  
Major General, U.S. Army, Retired.

Classification changed by authority  
of        (Assistant General) (Date)

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CONFIDENTIAL

October 2, 1944.

Major General Walter C. Short, USA Retired,  
1141 Southwestern Boulevard,  
Dallas 5, Texas.

Dear General Short:

Your letter of 29 September 1944 is being placed in the hands of the Army Pearl Harbor Board.

This Board was appointed by my order to ascertain and report to me the facts relating to the attack made upon the Territory of Hawaii on 7 December 1941, and to make such recommendations as it may deem proper. You may therefore rest assured that the Board is exploring all sources of evidence bearing upon the subject.

I am directing General Gurnert to permit your Military Counsel to examine its exhibits in the presence of a member of the Board. No copies of these exhibits, however, may be made.

I am also directing that appropriate warnings relating to military security be given to your counsel for the information and guidance of all concerned.

Sincerely yours,

HENRY L. STIMSON

Secretary of War.

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THE ADJUTANT GENERAL  
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HEADQUARTERS ARMY PEARL HARBOR BOARD  
 Munitions Building

24 August 1944

MEMORANDUM FOR: General Grunert  
 General Russell  
 General Frank  
 General Green  
 Colonel Toumin  
 ✓ Colonel West  
 Colonel Hughes  
 Major Glawson  
 Captain Burkart  
 Lieutenant Murphy  
 Mr. Watkins  
 Sergeant Montgomery  
 Miss Brunson

1. The copies of our Transcript to date of departure marked "Copy for General Grunert" and original of all exhibits will be taken with us. The other four (4) copies will be left behind. This includes Volumes 1-18, inclusive.

2. While absent from Washington, two copies of our daily transcript, i.e., those marked for General Grunert and General Russell, will be retained with the Board. As soon as corrections are completed, the other three (3) copies will be mailed to the Board Headquarters in Washington, to be numbered and utilized by digesting staff. This includes Volume 16 (testimony of 25 Aug. 1944) and subsequent volumes of testimony taken outside of Washington.

3. The copies of Transcript marked "For the Recorder" will be turned over to General Short (through his counsel, General Green) as soon as corrections and numbering are completed. The mentioned counsel will also be permitted to examine copies of all exhibits to the proceedings but will not be furnished copies.

CHARLES W. WEST,  
 Colonel, J.A.G.D.,  
 Recorder.

cmw/aw

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## CONFIDENTIAL

HEADQUARTERS ARMY PEARL HARBOR BOARD

Room 4741, Munitions Building

7 September 1944

Colonel Charles W. West, Recorder  
Army Pearl Harbor Board  
Building 36, Presidio of San Francisco  
San Francisco, California

Dear Colonel:

I enclose herewith copy of memorandum I have today sent to Major B. R. Powell, G.S.C., who is acting on behalf of Brigadier General J. S. Bragdon, counsel for Colonel Wyman.

I wrote this letter after considerable thought and consultation with General Eramer, as there would be a distinct embarrassment involved in giving General Bragdon a copy of Major Clausen's memorandum of 10 July 1944 to Mr. Amberg. This memorandum is referred to, as you will note, in the memorandum of the Acting Secretary of War to the Judge Advocate General dated 17 July 1944. In spite of this fact, it was felt that General Bragdon, as counsel, has a right to the order referring the Wyman case to the Board. In the event General Bragdon follows up the present request by requesting Major Clausen's memorandum, I shall, unless instructed to the contrary by the Board, decline to give it to him on the ground that it contains confidential information to which he is not entitled.

Sincerely,

WILLIAM J. HUGHES, JR.  
Colonel, J.A.C.G.

Incl--Copy of memo to  
Maj Powell with incls

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HEADQUARTERS ARMY PEARL HARBOR BOARD  
 Room 4741, Munitions Building

2 September 1944

MEMORANDUM FOR : JUDGE W. P. PEARSON, G. S. C.

Subject: Order Creating Pearl Harbor Board and  
 Referring Matter of Colonel Theodore  
 Lyman, Jr., to Board

1. Pursuant to your oral request for transmission to Brigadier General J. S. Bragdon, who you state has been appointed counsel for the above-named officer, there is attached hereto copy of confidential order by the Secretary of War dated 8 July 1944 creating the Pearl Harbor Board, copy of supplemental order of the Secretary of War dated 12 July 1944, and copy of confidential memorandum of the Acting Secretary of War dated 12 July 1944 referring the matter of the investigation of Colonel Theodore Lyman, Jr. and any others who might be involved in Hawaiian defense projects to the Pearl Harbor Board.

WILLIAM J. HUGHES, JR.  
 Colonel, J.A.G.C.  
 Officer in Charge

3 Incl

Incl 1: Conf order by S/W  
 dtd 8 Jul 44

Incl 2: Suppl ord of S/W  
 dtd 12 July 44

Incl 3: Conf memo of Acting S/W  
 dtd 12 Jul 44

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CONFIDENTIAL

Approved: \_\_\_\_\_  
Special Agent in Charge

1. Pursuant to the provisions of Public Law 85-504, which authorized the Department of Defense to conduct a study of the military and naval forces upon the availability of personnel for service in the armed forces of the United States...

MEMBER

RESERVE

- Lt. Col. James M. ...
- Maj. Gen. ... D. Russell, ... USA, ...
- Maj. Gen. ... M. Frank, ... USA, ...
- Col. Charles M. West, ... JAGC, ...

- dg, ... Service (Command ...)
- YD ... Board, Y Section, ...
- 6004st ... Unit, ...
- CGMA ... Point, N. Y.

2. Such military and civilian personnel may be assigned to assist the Board as the Board shall require.

3. The Board may at any time and at such place or places as it may deem advisable, be empowered to procure its own personnel and is authorized to employ a civilian reporter or reporters.

4. The members of the Board holding in civilian positions will retain their civilian status and will continue to receive their civilian pay.

5. During the period of assignment to the Board, representatives of the ... shall be assigned to the Board and travel, including ... shall be provided for them as directed by the ...

RESTRICTED  
CONFIDENTIAL

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CONFIDENTIAL

Supplemental Orders.

To: Each Officer mentioned.

1. The Board appointed by letter orders, this office, AFPO-2-A 210.311 (24 Jun 44), 8 July 1944, subject: "Orders", as amended by letter orders, this office, AFPO-2-A 210.311 (10 Jul 44), 11 July 1944, subject: "Amendment of Orders", pertaining to each of the following-named officers, will consider the phases which related to the Pearl Harbor Disaster of the report of the House Military Affairs Committee, as directed by the Acting Secretary of War in his memorandum for the Judge Advocate General, 13 July 1944:

Lt. Gen. George Stewart, O1834, USA,  
 Maj. Gen. Henry D. Russell, O2L2769, USA,  
 Maj. Gen. Walter B. Frank, O2871, USA,  
 Col. Charles W. Went, O12774, JAAG.

2. Major Henry C. Clausen, O807615, JAAG, is appointed as Assistant Recorder without vote on the above referred to Board.

By order of the Adjutant General, Secretary of War:



*W. M. Wilson*  
 Adjutant General.

1 Incl.  
 Memo 12 July

## Distribution:

AC of S, G-1, Col. Goodwin, R 20931, The Pentagon.  
 C Statistics Br, GS, Rm 3D886, The Pentagon.  
 Off Br Rec Sec, Rm 1505, Munitions Bldg. w/d  
 Col. Barger, Rm 1052, Munitions Bldg. w/d  
 1-Each officer's 201 file.  
 AC of S, OPD, YDGS, Rm 38860, The Pentagon.  
 CG, Army Air Forces, Rm 6D1082, The Pentagon  
 The Judge Advocate General, Rm 2761, Munitions Bldg

CONFIDENTIAL

| CONFIDENTIAL |

July 24, 1944.

MEMORANDUM FOR THE JUDGE ADVOCATE GENERAL.

Subject: Report of Base Military Affairs Committee regarding alleged neglect and misconduct of Colonel Frederick Brown, Jr., and others, concerning facilities and instruction relative to Japanese.

1. The recommendations contained in paragraph 3 of the memorandum dated July 10, 1944, of Major Harry S. Claman, J.A.G.C., to Mr. [redacted], Special Assistant to the Secretary of War, on the above subject, are approved.

2. Immediately upon the appointment of a board of officers pursuant to Public Law 337, with Claman, to investigate the facts surrounding the Pearl Harbor catastrophe, the phases of the above matter relating thereto will be referred to such board for investigation and such other action as may be proper under the direction appointing such board. As it is understood Major Claman will be detailed as assistant recorder of this board, he will continue in that capacity to coordinate the activities referred to in paragraph 1 hereof with the activities of the Pearl Harbor board in the present case.

(Signed) HENRY P. PATTERSON

HENRY P. PATTERSON  
Acting Secretary of War.

CONFIDENTIAL

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**CONFIDENTIAL**

HEADQUARTERS ARMY PEARL HARBOR BOARD  
Room 4741, Munitions Building

4 September 1944

MEMORANDUM FOR COLONEL J. A. SEITZ, G. S., OPC, Room 4C30, Pentagon

Subject: List of Personnel Including and Accompanying the Army Pearl Harbor Board to Hawaii.

Pursuant to your request by telephone on 2 September 1944 that you be furnished with a complete list of all the personnel including and accompanying the Army Pearl Harbor Board on its trip to Hawaii, the names of such personnel are as follows:

Lt. Gen. George Gruenert, O1534, USA  
Maj. Gen. Henry D. Russell, O12769, USA  
Maj. Gen. Walter H. Frank, O12771, USA  
Col. Charles H. West, O12772, JAGD  
Col. Harry A. Toulmin, O205520, AC  
Lt. Colonel Charles K. Nelson, Jr., O357164, AC  
Maj. Henry C. Clausen, O907613, JAGD  
Maj. Robert G. Hurt, O1060134, AGE  
1st Lt. James L. Murphy, Jr., O583430, AC  
Sgt. Stephen M. Montgomery, 33846271  
Mr. Lloyd L. Markins  
Mr. Earl H. Penell  
Mr. M. A. O'Connor  
Mr. Stephen S. Maxson  
Mr. Leon M. Golding  
Mr. Verle C. Brown

*W. J. Mughys, Jr.*  
WILLIAM J. MUGHYS, JR.  
Colonel J.A.G.D.  
Officer in Charge

CONFIDENTIAL

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WAR DEPARTMENT  
HEADQUARTERS ARMY PEARL HARBOR BOARD

13 September 1944

Colonel William J. Hughes, JAGD  
Room 4741, Munitions Building,  
Washington, D. C.

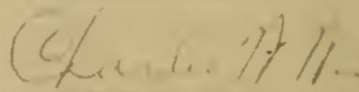
Dear Colonel Hughes:

Three copies of all volumes of the transcript covering our San Francisco hearings to include number 23, which was the last testimony taken there, were duly transmitted to you by registered mail prior to our departure from that place. This was in accordance with my memorandum dated 24 August 1944, a copy of which was furnished you and Major Burkhart.

Our schedule of operations here has been a rather intensive one and it has been somewhat difficult for the Board members to keep the record "read". However, they do not want the rear echelon there to run out of copy. Therefore, it has been decided not to wait until the record is read and corrections are made on all copies (as per plan set forth in previous memorandum) but to send you two copies of each volume as soon as available and before corrections are made. These two will be those marked Secretary of War and Recorder. If you are still transmitting the latter to General Green on behalf of General Short, it should be explained to him that slight minor corrections may later have to be made. So far as Burkhart's crew is concerned, I may say that usually the corrections to be made are of an obvious or minor nature. They will doubtless pick up any glaring error which may creep in.

In accordance with the foregoing remarks there is being transmitted to you via earliest available transportation two copies each of volumes 24 - 27 inclusive, and subsequent ~~copies~~ will be forwarded as soon as completed.

Trusting that everything is moving along all right and looking forward to seeing you soon, I am, with kindest regards,

Very truly yours,  
  
Colonel, JAGD,  
Recorder.



**SECRET**

SPJGJ

21 September 1944

MEMORANDUM FOR THE CHIEF OF STAFF GENERAL JOHN M. WEIR.

Subject: Pearl Harbor Board Proceedings.

1. I discussed the Pearl Harbor matter with General McNarney this morning and he told me that when the Board had made its report it would very probably be referred to me in the usual course for opinion. In that event I pointed out that the time element was such that either I or someone in my office ought to begin to familiarize himself with the testimony in order that no undue delay should occur at this end. General McNarney stated he wished this procedure to be followed and to advise the Pearl Harbor Board accordingly.

2. I would like you, therefore, to inform the Board of the above and to have Colonel Hughes familiarize himself with the testimony so as to be able to assist me when the time comes.

Myron C. Cramer,  
Major General,  
The Judge Advocate General.

Hughes, W. J. Jr. -rm

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WAR DEPARTMENT  
Bureau of Public Relations  
PUBLICATION  
No. 1 - 22 2700  
Apr. 22nd 1942

October 22, 1942

MEMORANDUM FOR THE PRESS:

The report of the Army Board which was appointed to assist the Secretary of War in investigating the facts surrounding the Pearl Harbor catastrophe has now been received by the Secretary.

The Secretary has referred this report, which is based on testimony taken during the last three months and recorded in nearly 6,000 pages, to the Judge Advocate General for consideration. The Secretary will also personally review the report and such part of the record as may be advisable.

The report has been classified by the Army Board partly as SECRET and partly as TOP SECRET, and this classification will be reviewed for security by appropriate military authorities.

END

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WAR DEPARTMENT  
Bureau of Public Relations  
PRESS BRANCH  
Tel. - RE 6700  
Brs. 3425 and 4860

October 26, 1944

MEMORANDUM FOR THE PRESS:

The following is the text of a question and the reply made by the Secretary of War at his press conference on October 26, 1944:

PRESS:

Can you disclose whatever you can about the nature of the Army's Pearl Harbor report? Does it recommend court-martial action against General Short or any other Army officers? Does it alter in any way the Army's expressed plan to hold a trial after the war is over of General Short? Is there any chance any part of the report or a summary thereof will reach the public prior to election day, or prior to the end of the war, or ever? When will it be made available to Congress?

SECRETARY:

Have you ever read the statute under which my duties are combined?

PRESS:

I read that and couldn't find it called for a report to Congress on that thing.

SECRETARY:

Then, why do you ask the question? I am going to follow this statute:

"The Secretary of War and the Secretary of the Navy are severally directed to proceed forthwith with an investigation into the facts surrounding the catastrophs described in Section I above and to commence such proceedings against such persons as the facts may justify."

That is the duty of the law under which I am acting. I do not care to comment on any future action on the Pearl Harbor report of the board which was appointed to assist me, except to say that I shall give this report the consideration necessary in order to carry out the serious duty by which I was charged by this act of Congress. The present status of the report is as given in the press release last Monday immediately after the report was handed to me.

END

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WAR DEPARTMENT  
SERVICES OF SUPPLY  
OFFICE OF THE JUDGE ADVOCATE GENERAL

Memorandum:

I am of opinion  
errors of judgment  
only & that those  
of such a nature  
Reason: faultless  
demanded for C. M.



11/30/44.

*Green*

By Joint Resolution of the Congress, approved June 13, 1944, the Secretary of War and the Secretary of the Navy were severally directed to proceed with an investigation into the facts surrounding the Pearl Harbor catastrophe of December 7, 1941, and to commence such proceedings against such persons as the facts might justify. In order to meet the wishes of Congress as expressed in this resolution, I have conducted such an investigation. In order to assist me to this end, there was appointed by order dated July 8, 1944, a Board of three general officers which was directed "to ascertain and report the facts relating to the attack made by Japanese armed forces upon the Territory of Hawaii on 7 December 1941 and to make such recommendations as it might deem proper."

This Army Pearl Harbor Board has conducted an extensive and painstaking investigation. It has held hearings in Hawaii, San Francisco, and Washington. It has examined a total of 151 witnesses and received many exhibits. I have read its report and examined such parts of the evidence taken as I deemed necessary. The Judge Advocate General of the Army, at my direction, has also examined the report and the record and has given me fully the benefit of his views.

I recognize the importance to any individual concerned of having a decision taken as to what, if any, action is to be instituted against him and, after weighing all the considerations, I am clear that the public interest as well as justice and fairness will best be served by a statement of my present conclusions. So far as they may be made public, consistent with the public interest, my conclusions are as follows:

SECRET

16.4

SECRET

-2-

The Army Pearl Harbor Board, although it recommended no disciplinary or other action, concluded that there were several officers in the field and in the War Department who did not perform their duties with the necessary skill or exercise the judgment which was required under the circumstances. On the recorded evidence, I agree with some but not all of the Board's conclusions.

As far as the Commanding General of the Hawaiian Department is concerned, I am of the opinion that his errors of judgment were of such a nature as to demand his relief from a Command status. This was done on January 11, 1942, and in itself is a serious result for any officer with a long record of excellent service, and conscientious as I believe General Short to be. In my judgment, on the evidence now recorded, it is sufficient action.

Furthermore, I am satisfied that proper steps were taken to correct such inadequacies of either personnel or organization as were shown to exist either in the War Department or in the field at the time of the Pearl Harbor disaster. My conclusion is that under all the circumstances the evidence now recorded does not warrant the institution of any further proceedings against any officer in the Army.

In accordance with the opinion of the Judge Advocate General, I have decided that my own investigation should be further continued until all the facts are made as clear as possible and until the testimony of every witness in possession of material facts can be obtained, and I have given the necessary directions to accomplish this result. Some of the testimony may be much delayed where witnesses are engaged

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-3-

in combat in active Theaters of Operation. My present decision will be reviewed when the investigation has been finally completed.

Finally, I am absolutely clear that it would be highly prejudicial to the successful prosecution of the war and the safety of American lives to make public at the present time the report of the Army Pearl Harbor Board or the record on which it is based.

Furthermore, to publish merely portions of the Board's report or record would necessarily distort the facts and the conclusions, which would likewise be against the public interest.

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CLASSIFIED MESSAGE CENTER  
OUTGOING CLASSIFIED MESSAGE

*✓ Col. [Signature]*

1110 30 SPXK-A

In order Public Law 379 7th Congress Army Board of Inquiry Board composed of 11 active and Reserve Officers to start about 25 Aug 45 and hold hearings during a weeklong period approximately 10 days. Board comprising General Grunert, Powell and Frank will be accompanied by 7 other officers and 6 civilian reporters. Request you facilitate Board's proceedings every practicable manner and designate qualified officer to act as liaison and render such assistance as may be required during stay in San Francisco. Direct his staff to make arrangements suitable office space including room for hearings and stenographic transcription and for housing and messing of mentioned personnel. Suggest room and messing and messing facilities be provided at Presidio or other nearby Army post. Advice by rad name and address of officer designated who will then be furnished further information regarding stenographic equipment to be provided locally prior to board arrival and other details.

*W*

1110 30 SPXK-A

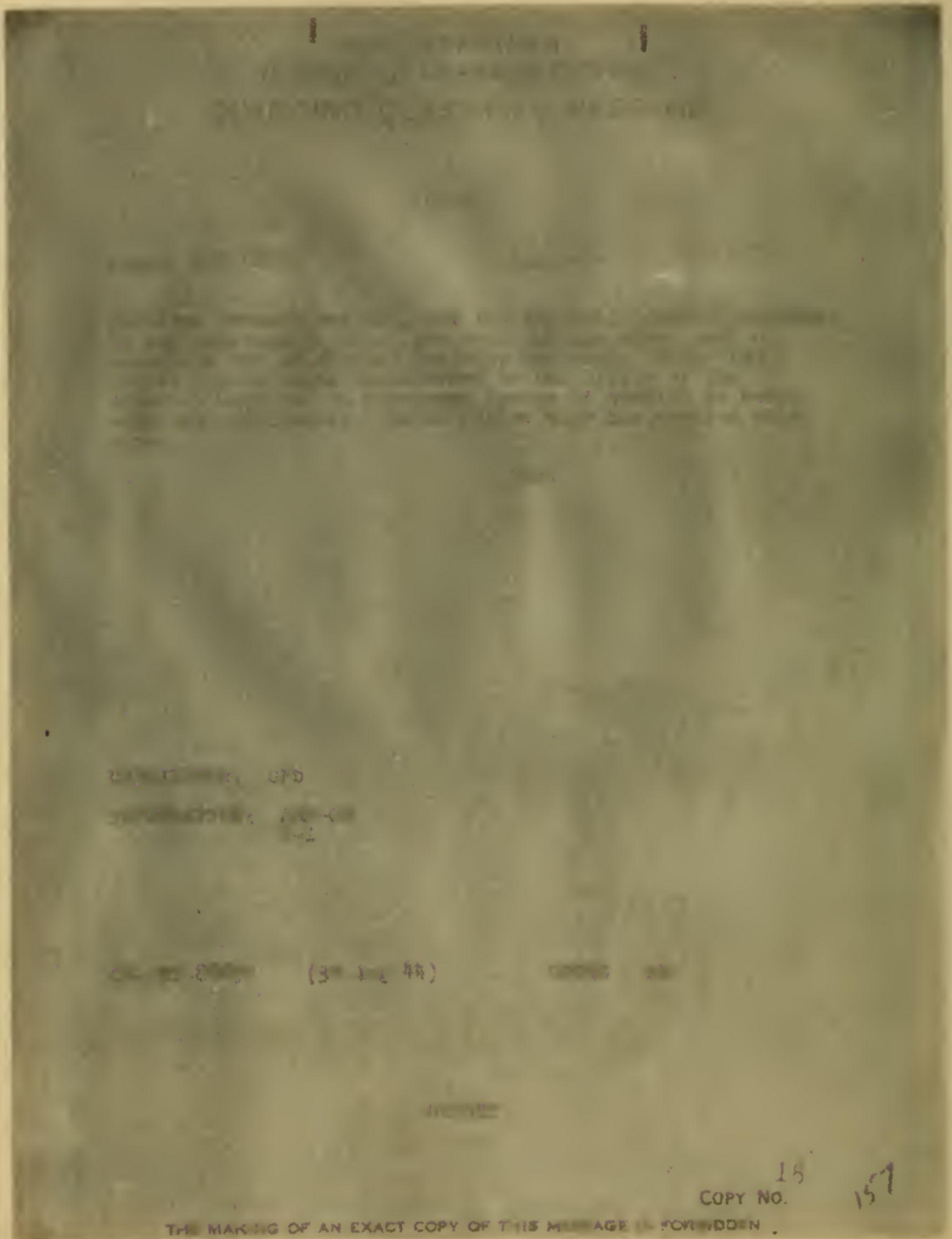
COPY NO

THE MAKING OF AN EXACT COPY OF THIS MESSAGE IS FORBIDDEN

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RECEIVED: 12-1-41  
COMMUNICATIONS SECTION

NOV 30 1941 (37 12 41) 12000 20

COPY NO. 15  
157

THE MAKING OF AN EXACT COPY OF THIS MESSAGE IS FORBIDDEN

CONFIDENTIAL

SECRET

MEMORANDUM FOR THE SECRETARY OF WAR.

Subject: Matters of inactive status or discharge of Army personnel  
concerning the unauthorized disclosure of classified information.

1. It is my opinion that court-martial jurisdiction for the unauthorized disclosure of classified information is connected with the investigation conducted by the Army Pearl Harbor Board concerning an act of the military personnel upon their discharge or release from active duty, if other than a member of the Regular Army, members of the Officers' Reserve Corps, Enlisted Reserve Corps, and members of the Reserve Officers' Corps, and men enlisted in the Army of the United States, Soldiers or Inductees, members of the Women's Army Corps, and officers and enlisted men of the National Guard of the United States, generally are subject to military law only when on active duty, and subject to jurisdiction over their conduct upon their relief from active duty or discharge. As a general rule, jurisdiction as to an offense committed during a period of service which has thus been terminated is not revived by a reentry into the military service. Under Article of War 2, retired officers and enlisted men of the Regular Army remain subject to military law.

2. Any person who willfully communicates or transmits, or attempts to communicate or transmit, any document, writing or note relating to the national defense to any person not entitled to receive it is subject to prosecution under the provisions of the Espionage Act (sec. 1, Title I, act of 15 June 1927 (40 Stat. 217); sec. 1, act of 28 Mar. 1950 (54 Stat. 79); 50 U.S.C. 11). The Department of Justice has informally expressed some doubt as to whether the unauthorized disclosure of classified information would constitute a violation of the mentioned statute, but would be willing to prosecute once if necessary.

MYRON C. CRAKER

Myron C. Craker,  
Major General,

The Judge Advocate General.

Info copy to Deputy Chief of Staff

Lazarus, R.S. *102*

CONFIDENTIAL

76

**SECRET**

WAR DEPARTMENT

WASHINGTON

MEMORANDUM FOR COLONEL WILLIAM J. HUGHES, JR., J.A.G.D., Room 2714  
 Munitions building, Extension 77535

The Secretary of War directs that the combination of the outer safe in room 4D-854, be given to Colonel Edward P. Mechling, Executive Office of Assistant Chief of Staff, G-4, upon the following understanding:

- a. The inner safe will remain where it is, without access
- b. The combination to the outer safe will be disclosed to no more than two officers.
- c. The door to the outer safe will not be allowed to remain open unless an officer is in attendance.
- d. The occupants of the room, entrance to which is obtained through the outer safe, will vacate the room for such period of time as Lieutenant Colonel Henry C. Clausen, JAGD, may require to enable him to complete the present work assigned to him by the Secretary of War.
- e. Colonel Mechling will acknowledge the above by appropriate indorsement hereon.

*Harvey H. Bundy*

HARVEY H. BUNDY  
 Special Assistant to the Secretary of War

**SECRET**



Section F

Short, Walter C. Lt Gen. #5

United States Senate

COMMITTEE ON APPROPRIATIONS

February 14, 1942

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- JOHN W. H. SMITH, ARIZ. CLERK
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- CHAR GUNNEY, S. DAK.
- C. WAYLAND BRUNN, ILL.

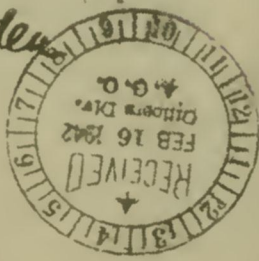
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The Honorable  
 Secretary of War  
 Washington, D. C.

My dear Sir:

I am in receipt of letters from several  
 of my constituents protesting against the retire-  
 ment with pay of General Short and Admiral Kimmel,  
 a copy of one of which I am enclosing. I shall be  
 greatly obliged if you will advise me of the present  
 status of this matter.

Yours very sincerely,  
 Carl Hayden



FEB 16 1942

66

RECORDED CARD DIV. 212

DO NOT DETACH THIS SLIP

OFFICE OF THE ADMINISTRATIVE ASSISTANT

Date 2/15, 1942

To

- Adj. General.
- Under Sec. of War.
- Asst. Sec. of War.
- Asst. Sec. of War (Air).
- Asst. Chief Clerk.
- C. & R. Div.
- Chief of Staff.
- Chief of Engrs.
- Chief of Ord.
- Surg. General.
- Panama Canal.
- Dir. Personnel.
- Chief, Air Corps.
- Chief of Finance.
- Q. M. General.
- Judge Advocate Gen.
- Public Relations.
- Chief Signal Corps.
- Proc. & Accts. Div.

For

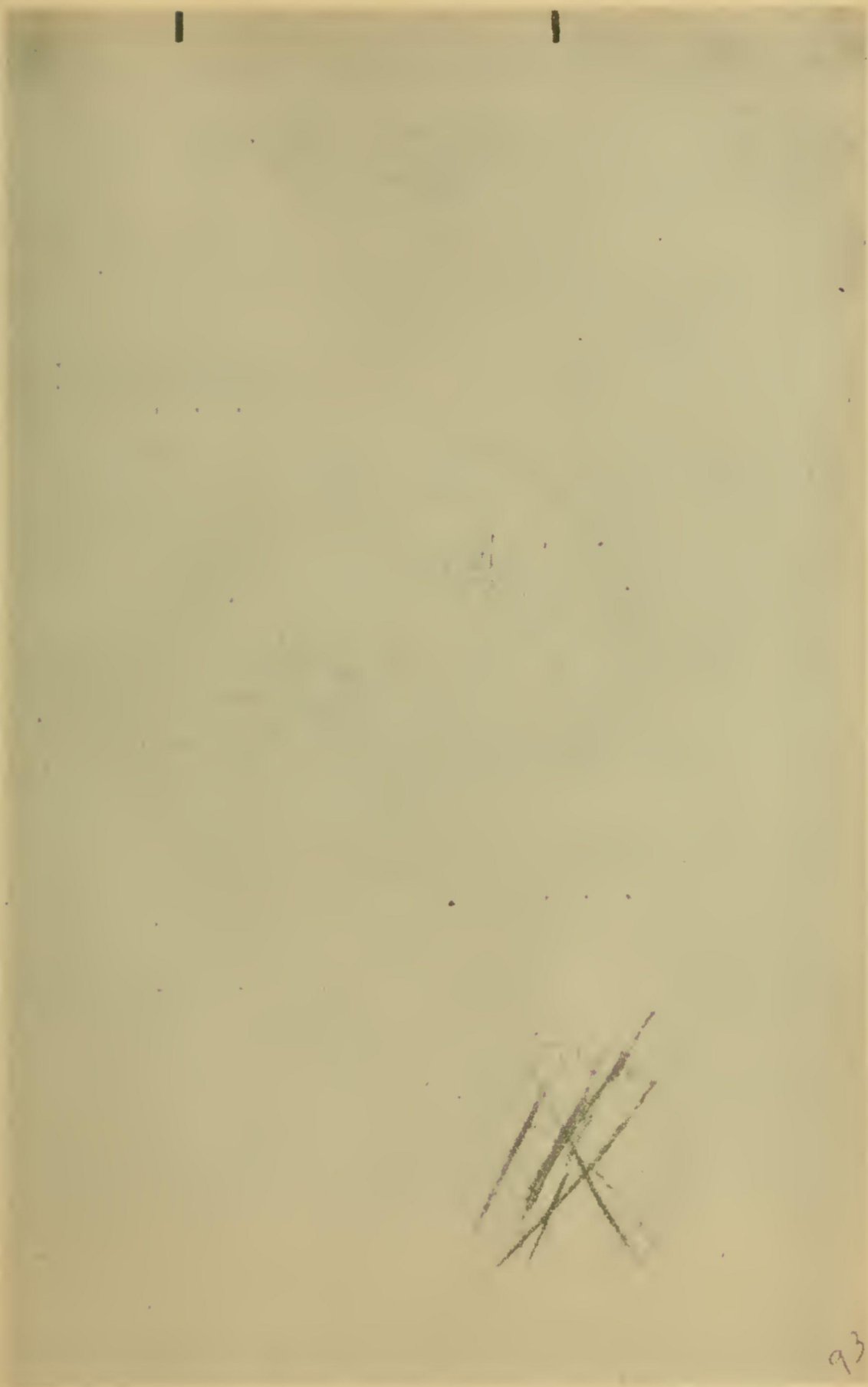
- Necessary action.
- Direct reply.
- Necessary action and preparation of reply for signature of Secretary of War.
- Necessary action and preparation of reply for signature of Administrative Assistant.
- Remarks and recommendation.
- Memorandum for Sec. of War or Administrative Asst.
- Investigation and report.
- Notation and filing
- Noted by Sec. of War or Administrative Asst. and returned for filing.
- Previous papers.
- Mark "Personal attention of Administrative Asst."
- Correction.
- Remarks:

By direction of the Secretary of War:

JOHN W. MARTYN,  
Administrative Assistant.

Form No. 1

212



1942

WD 201 Short, Walter C.  
(2-14-42)

Feb 14 1942

*Handwritten mark*

Honorable Carl Hayden,  
United States Senate.

Dear Senator Hayden:

This will acknowledge receipt of your letter of February 14, 1942, requesting information as to the present retirement status of General Short and Admiral Kimmel, and enclosing copy of a letter from one of your constituents, Mrs. F. N. Guild of Tucson, Arizona, in which she protests the retirement of these two officers.

The conditions surrounding the case of Major General Walter C. Short, United States Army, are of very confidential nature; and, in view of the report of Justice Roberts concerning this matter, I feel confident that you will appreciate the necessity for such procedure. As soon as a decision has been reached by the Department, full publicity of the action to be taken will be made.

Since the case of Admiral Kimmel comes under the jurisdiction of the Navy Department, it is suggested that you address the Secretary of the Navy concerning that officer.

Sincerely yours,

Secretary of War. *CNK*

DISPATCHED  
FEB 19 1942

*Handwritten initials*

94

ALBION...  
Secretary of War.

*Handwritten notes:*  
File  
2-18-42



ANTHONY CLARKE, VA., CHAIRMAN  
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 JOHN W. BENTLEY, EAST CAR.

United States Senate

COMMITTEE ON APPROPRIATIONS

**CONFIDENTIAL**

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 [Illegible signature]

**CONFIDENTIAL**

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*Handwritten notes:*  
 [Illegible]

JAU/hes/1664

AO 201 Short, Walter G.  
(11 Sep 43)P-H

16 September 1943.

Honorable C. Wayland Brooks,  
United States Senate.

My dear Senator Brooks:

Your letter of 11 September 1943 concerning Major General Walter G. Short, O-1621, United States Army, Retired, to the Secretary of War, has been referred to me for appropriate reply.

Before appropriate action can be taken, it is necessary that I secure certain information in this matter. I feel certain, therefore, that you will appreciate the necessity for a slight delay before a final reply will be possible.

Very respectfully,

J. A. ULIN,  
Major General,  
The Adjutant General.

121

SPJGG

OCT 8 - 1943

Honorable C. Wayland Brooks,  
United States Senate.

Dear Senator Brooks:

In further reply to your letter of 11 September 1943 inquiring whether the statute of limitations will bar the trial of Major General Walter C. Short (Retired) for alleged offenses committed on or about 7 December 1941, you are advised that the two-year period of the statute of limitations embodied in Article of War 39 will expire 7 December 1943, but that in the meantime General Short has executed a waiver of the statute of limitations. General Short's action in executing a waiver is similar to that of Rear Admiral Husband E. Kimmel who executed a waiver covering the Naval statute of limitations. Public announcement to this effect was made in the press on 3 October 1943.

In answer to your second inquiry as to whether General Short was placed on the retired list following the attack on Pearl Harbor, you are advised that General Short, upon his own application, was retired from active service 28 February 1942, "without condonation of any offense or prejudice to any future disciplinary action".

Sincerely yours,

(Sgd.) HENRY L. STIMSON

Secretary of War.

OCT 8 - 1943



FOR THE USE OF THE SECRETARY OF WAR

ORIGINAL DISPATCHED FROM  
OFFICE OF THE SECRETARY OF WAR

Copy for The Adjutant General

123

SPJLE

1st Ind.

War Department, ASF, J... .. 4 October 1943.

To: The Adjutant General (TAGE Personnel Division, G-1, War Department General Staff).

1. Inclosed is draft of reply for the signature of the Secretary of War, to letter of Senator C. Wayland Brooks.

2. The return of this file was delayed because of the anticipated public announcement of the signing of a waiver of the statute of limitations by General Short. This announcement appeared in the newspapers of 3 October 1943.

Myron C. Cramer,  
Major General,  
The Judge Advocate General.

2 Incls.

- Incl. 1 - AGO Transm. Sheet  
9-20-43 w/4 incls.
- Incl. 2 - Brit. ltr. Sen. Brooks.



Honorable C. Bayland Brooks,

United States Senate.

Dear Senator Brooks:

In further reply to your letter of 11 September 1943 inquiring whether the statute of limitations will bar the trial of Major General Walter C. Short (Retired) for alleged offenses committed on or about 7 December 1941, you are advised that the two-year period of the statute of limitations embodied in article of war 39 will expire 7 December 1943, but that in the meantime General Short has executed a waiver of the statute of limitations. General Short's action in executing a waiver is similar to that of Rear Admiral Husband N. Kimmel who executed a waiver covering the naval statute of limitations. Public announcement to this effect was made in the press on 3 October 1943.

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Sincerely yours,

Secretary of War.

41

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United States Senate

COMMITTEE ON MILITARY AFFAIRS

November 22, 1943

Major General M. C. Cramer  
The Judge Advocate General  
United States Army  
Washington, D. C.

Dear General Cramer:

I am in receipt of a letter from Fred W. Simpson of Colorado Springs, Colorado, as follows:

"The writer begs to again rise to a point of order and ask why Kimmel and Short cannot be courtmartialed before the statute of limitations bars such a trial, which should be as we understand it before December 7, 1943. The permission given both of these men to retire instead of being tried at once seems to me to be letting them off very easy, to say the least."

It will be appreciated if you will favor me with a reply in duplicate which I may transmit to Mr. Simpson.

Many thanks for your cooperation and courtesy.

Sincerely,

ECJ:ES

014.4 Statute of Limitations

4

X

25 November 1943

SPJUS

Honorable Edwin C. Johnson,  
United States Senate.

Dear Senator Johnson:

Receipt is acknowledged of your letter of 22 November 1943 in which you quote from a letter received by you from Fred W. Simpson, Colorado Springs, Colorado, relative to the statute of limitations barring possible future courts-martial of General Short and Admiral Kimmel.

In a press announcement, 3 October 1943, the Secretary of War stated that General Short had executed an instrument waiving as a defense the statute of limitations should he be tried by court-martial subsequent to 7 December 1943. A similar announcement with reference to Admiral Kimmel was made by the Secretary of the Navy.

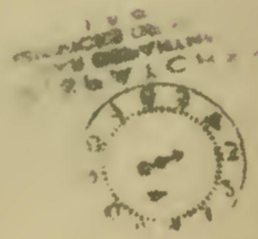
Very sincerely yours,

Myron C. Cramer

Myron C. Cramer,  
Major General,  
The Judge Advocate General.

J. R. H.

Salmond, J. J.



NOV 25 1943

Old. 4 Statute of Limitations - 25 November 1943

38

May 18, 1944

Honorable Mike Mansfield,  
House of Representatives,  
Washington, D. C.

Dear Mr. Mansfield:

I have your letter of May 10, 1944, requesting to be advised as to the War Department policy with reference to the trial of Lieutenant General Walter C. Short for alleged offenses growing out of the Japanese attack on Pearl Harbor. You point out that the statute of limitations, as extended by Congress, will expire June 7, 1944.

The War Department does not take the view that General Short must be tried before June 7 next. Some time ago General Short executed a waiver of the statute of limitations which operates to extend it until the end of the war and six months thereafter and thus permits his trial irrespective of the date set by the act of Congress referred to by you (Act of December 20, 1943, Public Law 208, 78th Congress). I understand a similar waiver was executed by Admiral Kimmel. Under these circumstances, I do not feel that the trial of this case in time of war is necessary. Such a trial would of necessity be very lengthy, would give publicity to highly confidential matters and would require the attendance of many important Army and Navy officers who at present are engaged in active operations against the enemy all over the world. For these reasons, I feel that it would not only be against the public interest but it would also be highly detrimental to the successful conduct of the war to bring this case to trial during the period of active operations.

Sincerely yours,

(Sgd.) HENRY L. STIMSON

Secretary of War.

C O P Y



25 MAY 1944

SPJQJ

MEMORANDUM FOR LEGISLATIVE AND LIAISON DIVISION, OFFICE CHIEF OF STAFF,  
ROOM 3C-916, THE PENTAGON.

Subject: H. J. Res. 283 "To extend the time limit for immunity".

1. Transmitted herewith is draft of a letter prepared for the signature of the Under Secretary of War, in reply to a letter dated 18 May 1944, from Honorable Emanuel Celler, in regard to House Joint Resolution 283, purporting to extend the statute of limitations in the Kissel-Short cases and requiring prosecution of these officers within a three months' period.

2. Attention is invited to the possibility that unless Representative Celler's letter to the Under Secretary of War is deemed personal, or quasi-official in character, the present matter should, under existing practice, be coordinated with the Bureau of the Budget if the Under Secretary's reply is to be deemed the official expression of the War Department.

Myron C. Cramer,  
Major General,  
The Judge Advocate General.

2 Incls.

- Incl. 1 - Routing slip, dated  
19 May 44, w/2 Incls.  
Incl. 2 - Dft of reply to  
Representative Celler.

EPJGJ

Honorable Emanuel Celler,  
House of Representatives,  
Washington, D. C.

Dear Mr. Celler:

In reply to your letter of May 18, 1944, requesting my views as to H. J. Res 233, a Joint Resolution to extend the time limit for immunity from prosecution of persons involved in the attack on Pearl Harbor, December 7, 1941, I inclose herewith copy of a letter dated May 18, 1944, from the Secretary of War to Honorable Mike Mansfield which expresses my views on this general subject matter.

Sincerely yours,

Under Secretary of War.

1 Incl.  
Copy ltr to Hon. Mike  
Mansfield fr S/W,  
18 May 1944.

*W. J. G. Jr.*  
*W. J. G. Jr.*  
*W. J. G. Jr.*

HOMER FERGUSON  
MICHIGAN

SECRETARY  
DOUGLAS G. MOORE

## United States Senate

WASHINGTON, D. C.

June 3, 1944.

COMMITTEE  
EXAMINERS OF THE  
EXHIBITS OF THE  
COMMITTEE  
JUNE 1944  
PUBLISHED BY THE JOINT COMMITTEE  
ON INVESTIGATION

Major General Myron C. Cramer,  
The Judge Advocate General,  
Headquarters Army Service Forces,  
Washington, D. C.

My dear General Cramer:

I am in receipt of your letter of June 1 with reference to the meaning of "manifest impediment" in Article of War 39 prescribing a statute of limitations of two years unless some manifest impediment to trial exists.

I note you now think it is possible that this could be interpreted to mean that one of the impediments would be if the Government could not produce witnesses. I am of the opinion that Congress and the people of the United States could not take a chance on such interpretation. I think the original opinion of the Attorney General and the authorities holding that it is an impediment which a man himself creates are the ones we would have to rely upon and that, therefore, an extension of the statute is essential if we are going to see that justice is really done. The thing which has troubled me considerably is that the Army has not seen fit to take a waiver from anyone other than General Short. They have assumed on their part, at least up to two days ago, to hold to the theory that there could be only one person guilty for what happened at Pearl Harbor. I think this is a wrong presumption. It is for this reason that I hope an investigation will be made so those who are guilty will be brought to trial at the earliest possible date consistent with our security. Surely trials could be conducted with reference to some of the acts committed at Pearl Harbor which would not interfere with our war effort.

As a matter of law I am wondering whether the Army assumes that they cannot investigate any agency of the government other than the Army. If this is true, then I think Congress itself should endeavor to investigate any phase which the Army feels it should not investigate because of the law. It would appear to me that the Army would have the right to go into other agencies to ascertain whether or not what was done by such agencies was the cause of the trouble rather than those acts committed by Army officers. I would appreciate your opinion on this important matter.

With best personal regards, I am

Sincerely,

HF/F

153

EPJGJ

- 1 JUN 1944

Honorable Homer Ferguson,  
United States Senate.

Dear Senator Ferguson:

I inclose herewith copy of memorandum prepared in this office as to the meaning of "manifest impediment" in Article of War 95 prescribing a statute of limitations of two years unless some manifest impediment to trial exists.

I feel, as suggested in the memorandum, that a court might readily hold that the existence of a state of war constituted a "manifest impediment" to trial of an alleged offender where his trial in time of war would either be impossible due to the absence of military witnesses engaged in the war effort or would be detrimental to the public interest because of the likelihood of giving information to the enemy. However, I do not care to take a positive position on the matter due to my belief that the situation is already taken care of by General Short's agreement not to plead the statute which I have every reason to believe he will adhere to. In the event that the unusual should occur and General Short should violate his solemn agreement, it is difficult for me to believe that a court-martial confronted with a fraud of this character would sustain his plea of the statute of limitations. Moreover, as I suggested to you yesterday, such action by General Short would subject him to trial for conduct unbecoming an officer and a gentleman under Article of War 95.

Very sincerely yours,

Myron C. Gruner

Myron C. Gruner,  
Major General,  
The Judge Advocate General.

1 Incl.  
Copy of memorandum.

W.D. [Handwritten signature]  
RECEIVED  
OFFICE OF THE JUDGE ADVOCATE GENERAL  
WASHINGTON, D.C.



Hughes, Wm. J. Jr., -cfs/vmf

JUN - 1 1944 18



## MEMORANDUM ON MEANING OF "MANIFEST IMPEDIMENT" IN ARTICLE OF WAR 30.

Article of War 30 provides a two-year statute of limitations but also provides:

"That the period of any absence of the accused from the jurisdiction of the United States, and also any period during which by reason of some manifest impediment the accused shall not have been amenable to military justice, shall be excluded in computing the aforesaid periods of limitation."

It is well settled that the above statute of limitations does not destroy the jurisdiction of the court but is a mere defense which must be pleaded. Ex parte Tompkins, 124 Fed. 74; In Re' Ellis, 17 Fed. 728; Jackson v. U.S., 12 Fed. Cases 227, 230, 7418; paragraph 67, page 52, paragraph 70, page 62, Manual for Courts-Martial, 1928. Before, therefore, any question can arise as to whether the statute of limitations has run or not, the accused must plead it. At that point the court will determine whether a "manifest impediment" existed during any particular part of the period. As to the meaning of "manifest impediment", the preceding reference to absence led the Attorney General in 14 Op. Att. Gen. 262 to hold that it meant an "impediment" similar in kind to absence which rendered the trial impossible. In In Re' Davison, 4 Fed. 507, 510, the court held that:

"'Manifest impediment' as used in the 30th article, does not mean merely want of evidence, or ignorance as to the offender or offense by the military authorities, but it means something akin to absence—want of power, or a physical inability to bring the party charged to trial."

In the case of Harris, 14 Op. Att. Gen. 262, 267, the Attorney General held "manifest impediment" did not refer to concealment of the offense by the accused, but that it meant something "akin to absence—want of power or a physical inability to bring the party charged to trial".

There are, however, intimations that "manifest impediment" may include something more than mere physical absence or some other

impediment purely personal to the accused. Thus, in 9 Op. Atty. Gen., 181, 183, the question was presented whether an officer who was dismissed the service but later restored to duty, could be tried on charges pending at the time of his dismissal. The argument apparently being that the period he was out of the Army, and hence not amenable to trial, constituted a "manifest impediment". The Attorney General said:

"The circumstances which may cause delay in bringing an officer to trial can be arranged in three classes: 1st. Those that are created or interposed by the act of the party; 2d. Circumstances arising independently either of his action or that of the Government; and 3d. Such as are controlled by the Government itself.

"Causes of delay arising from the conduct of the party accused are manifest impediments within the meaning of the 88th article. It is a broad principle of law and of natural justice that no man can take advantage of his own wrong; accordingly, wherever we find statutes of limitations in favor of offenders, they are coupled with an exception against persons beyond the jurisdiction of the proper court, and fugitives from justice. Haugh, in a note on the words 'manifest impediment' in the English statute, says it is 'preventing witnesses appearing against him, or the like.' In Colonel Johnson's case, cited by that author, the charge was mutiny in arresting the captain general of New South Wales, who was the principal witness for the crown, but who did not arrive in England, where the court martial was held, for more than two years after the mutiny had been committed.

"This was held to justify a delay beyond the period of three years in bringing the offender to trial".

It is evident from the above that the present case comes within the second subdivision involving as it does "Circumstances arising independently either of his action or that of the Government;". This was the situation in Colonel Johnson's case, cited with approval by the Attorney General, wherein it was the absence of a prosecuting witness which was held to be a "manifest impediment" (see Haugh's Military Law Authorities, page 13; see also Haugh, Practices in Courts-Martial, pages 489-493).

One of the reasons for not bringing the accused to trial at the present time is, as is well known, the absence and dispersal all over the world of important Government witnesses. If the absence of witnesses, which merely renders a trial more difficult, constitutes a "manifest impediment", the fact of actual war which renders it detrimental to American interests to try the offenders in time of war, would likewise constitute a "manifest impediment". It cannot be supposed that Congress,



was so arranged in the statute a period of time when a "manifest impediment" existed, intended to prevent the "manifest impediment" from being used to obstruct, such as a disease, but intended to test the case in the event of an epidemic, namely, a condition of war which would render a trial impossible without great harm to the war effort. The Articles of War were intended by Congress as a code not merely for peacetime but for war, and no construction should be read into them which impairs their application to wartime situations. It is especially noteworthy that the Judge Advocate General of the Army has rendered an opinion in the matter that shows a state of war exists, rendering it against the public interest to try the accused in time of war, the fact of war constitutes a "manifest impediment" within the meaning of the applicable statute of limitation.

It seems, therefore, entirely possible that a court might construe the existence of a state of war as a "manifest impediment" on the theory that trial of the offender at such a time would defeat its own purpose. In against this, are the cases already cited which up to now, at least, limit the meaning of "manifest impediment" to situations peculiar in character and not including a situation where it is merely inconvenient to the Government to try the offender at the particular time. Thus, in this aspect, Hughes' Military Law and Procedure, page 357, states:

"It need hardly be added that a delay in the prosecution beyond the period of the limitation, caused by the fact that it was not convenient or deemed advantageous for the Government to prosecute before, can clearly not be treated as an 'impediment.'"

The matter being doubtful, it is felt on the whole that too great reliance should not be placed upon the possibility that a state of war constitutes a "manifest impediment" within the meaning of Article of War 33.

W. J. J.

1444/6292

-1 JUN 1944

Rear Admiral Thomas L. Gatch,  
The Judge Advocate General of the Navy,  
Room 2307, Navy Building,  
Washington 25, D. C.

Dear Admiral Gatch:

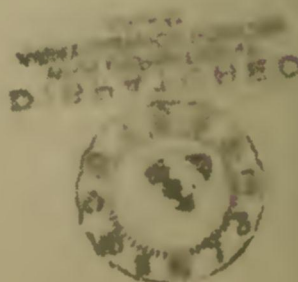
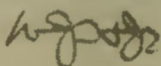
I inclose herewith copy of a letter, dated today,  
which I have sent to Senator Ferguson, inclosing a copy of  
a memorandum prepared in this office on the meaning of  
"manifest impediment" contained in Article of War 19.

Very sincerely yours,

Myron C. Cramer

Myron C. Cramer,  
Major General,  
The Judge Advocate General.

1 Incl.  
Ltr to Sen. Ferguson w/incl.



Hughes, Wm. J., Jr., c/o



AH:cjs  
DECEMBER 9, 1943.

Honorable HAROLD D. SMITH,  
*Director, Bureau of the Budget*  
*Washington, D. C.*

MY DEAR MR. SMITH: In compliance with your request of December 8, I have examined the resolution (H. J. Res. 199) which is before you in enrolled form, to extend the time limit for immunity.

The Joint Resolution would extend the statute of limitations affecting the possible prosecution of any person connected with the Pearl Harbor catastrophe or involved in any other possible or apparent dereliction of duty, for the period of six months.

The debates in the Senate and House of Representatives on this resolution indicate that it was the view of the sponsors of the legislation in Congress that as a matter of precaution in order to avoid any question as to the binding effect of any waivers of the statute of limitations that have been obtained so far, and in order to extend the right of the Government to prosecute any persons who have not waived the statute of limitations' it was desirable that that statute of limitations in respect to such cases be extended by congressional action.

I found no objection to the approval of the Joint Resolution.

Sincerely yours,

[S] F. BIDDLE,  
*Attorney General.*

Delivered by Asst. Sol. Gen's Office 12-10-43.

AH:NAT:mer  
DECEMBER 13, 1943.

Honorable HAROLD D. SMITH,  
*Director, Bureau of the Budget,*  
*Washington, D. C.*

MY DEAR MR. SMITH: In compliance with your request of December 8, I have examined the resolution (H. J. Res. 199), which is before you in enrolled form, to extend the time limit for immunity.

The Joint Resolution would extend the statute of limitations affecting the possible prosecution of any person connected with the Pearl Harbor catastrophe, or involved in any other possible or apparent dereliction of duty, for a period of six months.

The debates in the Senate and House of Representatives on this resolution indicate that it was the view of the sponsors of the legislation in Congress that as a matter of precaution in order to avoid any question as to the binding effect of any waivers of the statute of limitations that have been obtained so far, and in order to extend the right of the Government to prosecute any persons who have not waived the statute of limitations, it was desirable that the statute of limitations in respect to such cases be extended by congressional action.

I am inclined to the view that the resolution is not likely to have the effect its sponsors apparently have in mind. If present waivers of the statute of limitations are binding, the legislation would be superfluous. If the waivers are not effective, the statute of limitations expired on the day on which the bill was finally passed by the Congress and the resolution cannot now revive the right of the Government in institute prosecutions.

In view of the fact, however, that the resolution is at best innocuous, I find no objection to its approval.

Sincerely yours,

\_\_\_\_\_, \_\_\_\_\_,  
*Attorney General.*

HBC:gm  
JUNE 9, 1944.

Honorable HAROLD D. SMITH,  
*Director, Bureau of the Budget,*  
*Washington, D. C.*

MY DEAR MR. SMITH: In compliance with your request of June 8, 1944, I have examined Senate Joint Resolution 133, to extend the statute of limitations in certain cases.

The Joint Resolution extends any statute of limitations that operates to prevent the court martial and prosecution of any person involved in any matter in connection with the Pearl Harbor catastrophe, or involved in any other possible or apparent dereliction of duty, crime or offense against the United States, for a further period of six months. As you know, Public Law 208, Seventy Eighth Congress (Act of December 20, 1942; 57 Stat. 605), extended these statutes for a period of six months from December 7, 1943.

Section 2 of the bill directs the Secretary of War and the Secretary of the Navy to proceed forthwith with an investigation into the facts surrounding the catastrophe, and to commence such proceedings against such persons as the facts may justify.

I call your attention to my letter dated December 13, 1943, commenting on House Joint Resolution 199, Seventy Eighth Congress, which became the Act of December 20, 1943.

I find no objection to the approval of the present resolution.

Sincerely yours,

\_\_\_\_\_, \_\_\_\_\_,  
*Attorney General.*

Delivered by messenger 6-9-44.

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4-1/2 / 8535

Honorable Harold D. Smith,  
 Director, Bureau of the Budget,  
 Washington, D. C.

JUN 6 - 1945

Dear Mr. Smith:

The War Department offers no objection to the approval of the enrolled enactment, S. J. Res. 66, "To extend the statute of limitations in certain cases".

The purpose of the enactment is to extend for a further period ending six months after the date of the termination of hostilities in the present war with Japan as proclaimed by the President or as specified in a concurrent resolution of the two Houses of Congress, whichever is the earlier, in addition to the extensions provided for in Public Laws 208, 339, and 489, 78th Congress, all statutes, resolutions, laws, articles, and regulations, affecting the possible prosecution of any person or persons, military or civil, connected with the Pearl Harbor catastrophe of December 7, 1941, or involved in any other possible or apparent dereliction of duty, or crime or offense against the United States, in connection with the Pearl Harbor catastrophe of December 7, 1941 that operate to prevent the court martial, prosecution, trial, or punishment of any such persons.

In the War Department's letter to you, dated December 10, 1943, commenting upon the enrolled enactment, H. J. Res. 199, which became Public Law 208, 78th Congress, it was pointed out that, in the opinion of this Department, that enactment, if approved by the President, would be ineffective to extend the period of limitations prescribed by Article of War 39 in regard to any offenses denounced by the Articles of War, which may have been committed in connection "with the Pearl Harbor catastrophe of December 7, 1941, or involved in any other possible or apparent dereliction of duty" by military personnel who have continued amenable to prosecution. That conclusion was based upon the premise that the two year period of limitation prescribed by Article of War 39 expired in respect to any such persons or offenses at midnight, December 7, 1943, and that any subsequent extension thereof by the approval of that resolution would be ex post facto and, therefore, void. In the War Department's letter to you dated December 2, 1944, commenting upon the enrolled enactment, S. J. Res. 156, which became Public Law 469, 78th Congress, it was stated that the foregoing considerations applied to the enactment, S. J. Res. 156. The same considerations also apply to the enactment, S. J. Res. 66, 79th Congress.

80

The War Department is unable to estimate the fiscal effect of the enactment, if approved.

Sincerely yours,

HENRY L. STIMMON

Secretary of War.

JUN 6 75 AM



DISPATCHED  
OFFICE OF THE  
CHIEF OF STAFF

61



## TELEPHONE CONVERSATION BETWEEN GENERAL CRAMER AND HUGH COX, ASSISTANT SOLICITOR GENERAL, 8 JUNE 1944

*Cox:* \* \* \* to proceed forthwith with an investigation—is cast in such a form that it does give the services some leeway as to the nature of the investigation, etc., and that although the words in the concluding clause doesn't have the language about discretion in it, it probably doesn't require any—the institution of proceedings any particular time, and for that reason the Attorney General told Judge Rosenman that considering the possibility of criticism that the President might be subjected to if he did veto it, it was his personal view that the President ought to think pretty carefully before he did decide to veto it. Now we are not going to put all that in a report. I think we'll just send to the Budget probably a noncommittal report stating that we don't have any objection or we don't take any position one way or another on the thing. But I thought you ought to be informed as to what the Attorney General had said to Judge Rosenman.

*Cramer:* Yes, I'm certainly very glad to know that. Well now, he doesn't think that the bill in its present form—if the President approves it, will that put us up against the proposition that we have to go ahead?

*Cox:* Oh I think you would be under a duty probably to have some kind of an investigation.

*Cramer:* We're going to have an investigation anyway, there's no question about that.

*Cox:* I don't think that otherwise, and I agree with the Attorney General about that, it imposes any immediate duty on you at all. If you ever finish the investigation and got full possession of all the facts, then the question would arise as to when you had to commence proceedings and I think you could construe that section so that the word "forthwith" doesn't apply to commence such proceedings, so you would have some latitude there anyway.

*Cramer:* Well that's just the question—I don't know--

*Cox:* The legislative history I think creates some doubt about it because they did take out the words "in their discretion".

*Cramer:* Yes, well the investigation as far as that's concerned, we'll start that any time, just as soon as we find out what's going to happen to this bill and where we are at. We didn't take it because at first there was going to be a two-party investigation and then General Short's wife was sick (I guess you heard me tell that), so that's the reason we haven't taken any.

*Cox:* Well that seemed—we look at section 2, that's the only immediate obligation that's imposed on you. Now I think that's improper, that is I don't think Congress has got the right to tell you to go ahead forthwith with an investigation but they've done it and it's a question I suppose for the President of weighing an impropriety against the criticism that might come from vetoing the thing.

*Cramer:* You see they say after investigating the facts surrounding the catastrophe described in section 1 above and to commence such proceedings against such persons as the facts may justify. But doesn't that imply that they mean to do it within the six months period since they've extended the statute?

*Cox:* I wouldn't construe it that way I think, General. I think—suppose your investigation for one reason or another isn't finished within the six months—the section shows you're not supposed to start proceedings until you've got all the facts. You may not be able to get the facts in six months; these people are scattered all over the world I suppose.

*Cramer:* Yes, they are everywhere; there's a question whether we can get them in that length of time. But I do feel this to a certain extent, if the President approves the bill, he does or at least implies that he is concurring with Congress in that directive, that binds the Secretary of War and Secretary of Navy to go ahead, don't you think there's the possibility of that?

*Cox:* Well again I think it's—I draw a distinction between the investigation and the proceedings. I think he certainly binds himself and them to go ahead with the investigation, which you are going to do anyway. Now on the proceedings I think there—I don't think he binds himself to starting proceedings within the six months period. I think it depends on what happens in your investigation—how the thing goes and what the situation is when the investigation is completed. I think it's pretty clear from the record of the history of the debates that I'm looking at that you can make a strong argument that Congress didn't intend you to start proceedings at any time if it was the judgment of the services that those proceedings would interfere with the war.

*Cramer:* Well that's probably true when you go through the records of the debates—I had those in front of me yesterday.



*Cox:* The Senate Debate and the House Debate both have got a lot of statements of that kind. It's not free from doubt but I think it's tenable, strong position.

*Cramer:* Well many people—the last I haven't talked to since I talked to you, but they were very keen about a veto on it. I doubt myself whether the President would veto it.

*Cox:* Well I got the impression from what the Attorney General said—heard—Judge Rosenman say—that the Judge would be very reluctant to have him veto it.

*Cramer:* Yes. So maybe we can get him to put in something in the message explaining the situation that by that he is not binding himself—

*Cox:* To start any proceedings if the proceedings are going to interfere with the war. I think it's quite possible that the people at the White House might approve that.

*Cramer:* Well all right. That's a good suggestion, I'll see what I can do about it. And thank you very much. Goodbye.

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TELEPHONE CONVERSATION BETWEEN GENERAL McNARNEY AND GENERAL CRAMER.  
15 JUNE 1944

*Cramer:* Good morning, General. I wanted to talk with you a bit about this Short-Kimmel business. I suppose you saw where the President signed the bill yesterday and made a statement to—in a general way about he understood that it was not to interfere with the war effort, which approves our going ahead with some sort of an investigation. Now I'm just wondering what the best procedure is. I've been talking with Admiral Gatch about it and we're both of about the idea that it ought to go up at least to the level of the two Secretaries to agree to do something in concurrence with each other and probably it would be a wise idea to put it up to the President and have sort of a joint commission of some kind—what do you think of that?

*McNarney:* Well I think that whatever we do should be joint—certainly if we are going to have an investigation it should be a joint investigation with both the Army and Navy on—now if the President would like to add some civilian I would have no objection to that.

*Cramer:* Well of course—

*McNarney:* We've already had one commission but I'm sure you and Gatch ought to get together and submit a recommendation to the two Secretaries as to what you think the—what type of a thing it should be.

*Cramer:* I see. Now so far as having a joint investigation is concerned that would have to be directed by the President I suppose anyway even if it were only Army and Navy.

*McNarney:* Oh no, it wouldn't have to be directed by the President because we have a directive to go ahead and do it haven't we?

*Cramer:* We have a directive to go ahead and do it, yes.

*McNarney:* The Secretary of War and the Secretary of Navy could agree to that if its restricted to Army and Navy people.

*Cramer:* But of course the—it says severally—I don't know what they mean by that act severally but the Act of Congress says that the Secretary of War and Navy shall severally be directed to proceed, which means separately I presume.

*McNarney:* Well I think we'd still have to do it separately.

*Cramer:* The only question about it would be this—if we agreed on a joint commission some way as to what authority it would have to subpoena witnesses and all that sort of thing. I mean if we just voluntarily agreed to appoint a joint committee.

*McNarney:* Well you'll have to give them enough authority to call witnesses before them and swear them I suppose.

*Cramer:* Well my offhand thought on that is that they'd have to have a special act of Congress authorizing like you people did on the Roberts Commission.

*McNarney:* They would, huh? I'm not enough of a lawyer to know all those things but I think the best thing to do is for you and Gatch to get together and make us a recommendation as to what we ought to do.

*Cramer:* All right, fine.

*McNarney:* I'm not enough of a lawyer to be able to determine it but I do think that whatever we do should be joint.

*Cramer:* Yes, well I think that's true. And they are sort of holding off—I told them we'd hold off so they wouldn't give any more public statements over there unless we made them together.

*McNarney:* Yes. Well I'll tell you I'll call Horn and tell him that I think that it should be joint and that I've asked you to get in touch with Gatch to submit some sort of a recommendation.

*Cramer:* All right, that will be fine. Goodbye.

*McNarney:* Goodbye.

JAG :rld

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DEPARTMENT OF THE NAVY,  
OFFICE OF THE JUDGE ADVOCATE GENERAL,  
*Washington 25, D. C., 15 June 1944.*

*Memorandum for the Secretary of the Navy.*

At 10:45 this morning I had a talk with General Cramer and General Weir in General Cramer's office on the Joint Resolution extending the Statute of Limitations as approved by the President on June 13. I pointed out that this Joint Resolution directs the Secretary of the Navy and the Secretary of War *severally* hold an investigation into the Pearl Harbor catastrophe and expressed the opinion that this requires us to proceed separately. General Weir opined that if the Secretaries acted severally upon a report it would satisfy the law in this respect. Both General Cramer and General Weir thought strongly that it would be preferable for the President to appoint a Joint Commission to handle the whole matter at once. I also agree that this would be preferable procedure providing that it complies to the Statute.

I told General Cramer that I contemplated recommending to the Secretary of the Navy that he immediately convene a Court of Inquiry which would be given the Roberts Commission Report and Admiral Hart's Report and would be authorized to summons any witnesses in the Naval service on shore duty within the United States; that in my opinion summoning witnesses outside of the United States would interfere with the prosecution of the war and would be counter to the President's expressed understanding in the statement he made of his reason of approving the Joint Resolution. General Cramer and General Weir thought it would be preferable to leave such a matter up to the discretion of the Board and tell them not to summons any witness which would interfere with our war effort.

If a Commission is appointed by the President we all agreed that there should be a General and an Admiral on it to deal with the strategic considerations. We thought that Mr. Hackworth of the State Department, or at least someone high up in the State Department should be on the Commission to cover the diplomatic phases and that there should be two other members so that the Commission would be predominately civilian. It occurs to me that perhaps a retired Judge and a Senator would be advisable.

We agreed that we should present our views to the Secretary of War and Secretary of the Navy and that they probably would wish to take this up with the President.

T. L. GATCH,  
*Judge Advocate General of the Navy.*



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U.S. DEPARTMENT OF THE NAVY



**CONFIDENTIAL**

DEPARTMENT OF THE NAVY  
 OFFICE OF THE JUDGE ADVOCATE GENERAL  
 WASHINGTON 25, D. C.

JUN 1 1944

**To:** Secretary of the Navy.  
**Subject:** New Legislation relating to Pearl Harbor Prosecutions.  
**Reference:** SecNav ltr 25 March 1944, (SC)416-5/4757.\*

1. Under date of 17 March 1944 the attention of the Secretary was called to the fact that it was necessary that this office ascertain the availability of certain officers in the event that a court martial should be convened to try persons involved in the disaster at Pearl Harbor on December 7, 1941. In the same communication instructions were requested.

2. Referring to a list of officers submitted to him by the Secretary, Admiral King stated that the detachment of these officers from duty at sea to participate in a court martial would seriously interfere with the war effort. This office was thereupon instructed to hold this entire matter in abeyance and in compliance with that order no further action was taken.

3. Under date of June 13, 1944 the President approved a Joint Resolution of the Congress which, in addition to extending the statute of limitations to December 7, 1944, provided as follows:

"The Secretary of War and the Secretary of the Navy are severally directed to proceed forthwith with an investigation into the facts surrounding the catastrophe described in section 1, above, and to commence proceedings against such persons as the facts may justify".

4. It is respectfully requested that appropriate instructions be issued in order that the provisions of the Joint Resolution may be complied with.

T. L. GATCH  
 Judge Advocate General



IN REPLY ADDRESS  
 AS JUDGE ADVOCATE GENERAL OF THE NAVY  
 AND REFER TO NO.

## DEPARTMENT OF THE NAVY

## OFFICE OF THE JUDGE ADVOCATE GENERAL

WASHINGTON, D. C.

STATEMENT OF THE SECRETARY OF THE NAVY RELATING TO THE  
 JOINT RESOLUTION REGARDING THE PEARL HARBOR  
 CATASTROPHE.

In accordance with the mandate of Congress expressed in the recently approved Joint Resolution relating to the catastrophe at Pearl Harbor, I shall at once order a formal Court of Inquiry to investigate all facts relating to this disaster.

Congress directed as follows:

"The Secretary of War and the Secretary of the Navy are severally directed to proceed forthwith with an investigation into the facts surrounding the catastrophe described in section 1, above, and to commence proceedings against such persons as the facts may justify."

When Congress passed this legislation, it knew that Admiral Hart had been engaged for some time in examining many witnesses with a view toward perpetuating their testimony. Nevertheless, Congress directed that I proceed with an investigation of the facts.

Inasmuch as Congress is not satisfied with the procedure taken by Admiral Hart and wishes further investigation by me, it is my duty to order a formal Court of Inquiry.

When this Court of Inquiry has completed its work and reported its findings to me, and should the facts so justify, those considered derelict in their duty at Pearl Harbor or connected with that catastrophe, will be proceeded against as directed by Congress.

*This was handed to Sec/Nav but  
 Mr. L. E. Brown has not been taken as yet.*

STANDARD FORM NO. 64

*Personal*  
Office Memorandum • UNITED STATES GOVERNMENT

DATE: JUN 15 1944

TO : General John Weir USA

FROM : Cornelius H. Bull  
Office JAG, USN

SUBJECT: Kimmel-Short court martial.

1. in my humble judgment - the sooner this matter gets over on the doorstep of No. 1600 Pennsylvania Avenue the better. After all, Mr. K is the only man who can decide whether these two officers should be court martialled - or if they should. Neither your secretary nor mine can decide this matter.

If Admiral Gatch recommends a court for Kimmel to the Secretary of the Navy he will have to lay this matter before the President for a decision. We both know that the President would, in all probability, just put the matter in his files ("under consideration") certainly until after the Elections.

Should the President decide that more investigation be needed, he could set up a composite Board or Court of Inquiry as he saw fit.

When Mr. Forrestal has instructed us how to proceed and what to do I'll sound off.

Regards,

*C. H. Bull*

Special Assistant  
to the Joint Chiefs of Staff General

JAG:EA:WGW:ds

17 JUN 1944

MEMORANDUM FOR THE SECRETARY OF THE NAVY

1. With further reference to the action to be taken by the Navy Department pursuant to Section 2 of S. J. Res. 133, commonly known as the Short Resolution, in which the Secretaries of War and Navy are "severally directed to proceed forthwith with an investigation into the facts surrounding the catastrophe," (the attack on Pearl Harbor of 7 December 1941), I have informally sounded out several members of Congress, including two members of the Conference Committee, with respect to their interpretation of the directive of S. J. Res. 133.
2. All of the Congressmen approached were substantially in agreement on the points discussed. I feel that their opinions present a fair consensus of the majority of the members of Congress. The reactions of the members with whom this matter was discussed may be summarized as follows:

(1) The Resolution contemplates separate investigations by the Army and Navy, as indicated by the use of the word "severally". The suggestion of a joint Army and Navy investigating commission, with civilian members, convened by order of the President, did not meet with approval. It was felt that such a commission would be a duplication of the Roberts Commission, and therefore largely wasted effort. Apparently there has been wide-spread dissatisfaction with the report of the Roberts Commission—a feeling that it did not tell the full story. Another Presidential inquiry would be construed as another attempt to stall or delay the announcement of charges against any officers at fault. There seemed to be a feeling among the members canvassed that it was the intent of Congress that any investigation be directly under the control of the Armed Services, rather than convened and controlled by the President.

(2) The purpose of directing the investigation was primarily to provide the respective services with the necessary information for the drawing of charges and specifications against any offenders.



JAG:KA:WFW:ha

The directive for an investigation "forthwith" was motivated largely by the opinions expressed to the cognizant Congressional Committees that the Army and Navy did not have sufficient information upon which to base charges and specifications. It was not the intention of the Congress to specify any particular type or form of investigation. The Army and Navy should make whatever type of investigation they deem most efficacious for obtaining the above mentioned information.

3. These expressions of opinion confirm my original belief that the most appropriate action would be a Naval Court of Inquiry, to inquire into the facts and make recommendations as to disciplinary action of officers found to have been at fault.

Respectfully

T. L. GATCH  
Judge Advocate General of the Navy

c.c Adm. T. O. Hart  
Maj. Gen. Myron C. Cramer ←



*Copies checked Adm  
Total 7 copies  
29 June 1944  
R.*

**CONFIDENTIAL**

SPJGJ 1944/8535

MEMORANDUM FOR THE SECRETARY OF WAR. Thru: Deputy Chief of Staff.

Subject: Pearl Harbor Investigation directed by Public Law 339,  
78th Congress, approved June 13, 1944.

1. Section 1 of Public Law 339, 78th Congress provides:

"The Secretary of War and the Secretary of the Navy are severally directed to proceed forthwith with an investigation into the facts surrounding the catastrophe described in section 1 above, and to commence such proceedings against such persons as the facts may justify."

Admiral Gatch has advised me that in his opinion the above provision requires separate investigations. He says that various members of Congress have told him that this was their understanding of the resolution. There is something to be said for this viewpoint, the dictionary meaning of the word "severally" being "separately; one at a time; each by itself; . . . respectively" (Webster). Bouvier and Black in their law dictionaries define it as "distinctly, separately, apart from others". Admiral Gatch has, therefore, recommended to the Secretary of the Navy the appointment of a Naval Court of Inquiry, a copy of which recommendation is attached hereto.

2. It is my belief that public opinion will not be satisfied with anything less than a broad, sweeping investigation into the activities of the War, Navy and such other Departments as may be involved in the Pearl Harbor disaster. However, the Navy's viewpoint, and possibly the wording of the Act, precludes a joint investigation of this character at this time without higher authorization. Lacking such authorization a Board of Officers appointed by the War Department could hardly make an investigation into the activities of Navy personnel in connection with the Pearl Harbor disaster, nor could it inquire into the activities of other Departments on that occasion. It would appear, therefore, that the most that an Army Board may do at the present time is to make a thorough investigation into the activities of the War Department in connection with this disaster, find the facts, and make recommendations.

3. As to the method, it is recommended that a Board of Officers be appointed, to be composed of three General officers assisted by a recorder who should probably be an officer of The Judge Advocate General's Department, and a technical adviser who should be an officer familiar with the military problems involved. Provision should administratively be made

**CONFIDENTIAL**

Hughes, W. J., Jr.-rm-afB

for such other military and civilian personnel as may become necessary. The employment of a civilian reporter or reporters should likewise be authorized, the expenses of which should be paid out of the appropriation for contingent expense of the War Department. Such a Board would have power to administer oaths under Article of War 114.

4. In the event the above recommendations are concurred in, a suggested draft of directive appointing such a board is inclosed herewith.

Myron G. Cramer,  
Major General,  
The Judge Advocate General.

2 Incls.

Incl. 1-Draft of directive.

Incl. 2-Memo to the Secretary  
of the Navy, 17 Jun 44.

(6874)

June 1944.

SPECIAL ORDERS )  
 )  
 No. )

1. Pursuant to the provisions of Public Law 339, 78th Congress, approved 13 June 1944, a Board of Officers is hereby appointed to ascertain and report the facts relating to the attack made by Japanese armed forces upon the Territory of Hawaii on 7 December 1941, and to make such recommendations as it may deem proper, as follows:

- |    |                                    |
|----|------------------------------------|
| a. | . Member;                          |
| b. | . Member;                          |
| c. | . Member;                          |
| d. | . Recorder, without vote;          |
| e. | . Technical adviser, without vote. |

2. Such military and civilian personnel may be assigned to assist the Board as the Board shall request.

3. The Board will convene at the call of the senior member and will hold sessions at such time or times and at such place or places as it may deem advisable. The Board is empowered to prescribe its own procedure and is authorized to employ a civilian reporter or reporters.

4. Military and civilian personnel will render the Board all necessary information and assistance.

By order of the Secretary of War:

S. C. MARSHALL,  
 Chief of Staff.

OFFICIAL:

J. A. ULIO,  
 Major General.  
 The Adjutant General.

*W. J. Hughes*



N. J. A. S.

30 June 44

DEPARTMENT OF THE NAVY  
OFFICE OF THE JUDGE ADVOCATE GENERAL

## MEMORANDUM

General Cramer  
Admiral Reeves  
just told me that  
he believes that the  
copies of the trans-  
cripts of testimony  
of the Roberts Com-  
mission that the  
War and Navy  
Departments (2  
copies) are the



N. J. A. G.

DEPARTMENT OF THE NAVY  
OFFICE OF THE JUDGE ADVOCATE GENERAL

## MEMORANDUM

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DEPARTMENT OF THE NAVY,  
OFFICE OF THE JUDGE ADVOCATE GENERAL,  
Washington 25, D. C., 30 December 1943.

*Memorandum for the Secretary of the Navy.*

H. J. Res. 199 has been approved by the President. This Resolution purports to extend the statute of limitations for trials by court martial for six months. Statements were made at the time of the passage of the Resolution that it would make mandatory the trial of Admiral Kimmel within the additional six months period. I foresee that such contentions will again be advanced.

It has been my view that the agreement Admiral Kimmel made not to plead the statute of limitations in bar of trial was not strictly necessary, but that his so agreeing made assurance doubly sure. Our statute of limitations reads:

"Article 61. No person shall be tried by court martial \* \* \* for any offense \* \* \* which appears to have been committed more than two years before \* \* \* unless by reason of having absented himself, or of some other manifest impediment he shall not have been amenable to justice within that period."

It is my view that where the circumstances are such that the convening of a court martial and the summoning of the necessary witnesses would interfere with out prosecution of the war, as determined by the President or the Secretary of the Navy, there is clearly such a "manifest impediment" as is contemplated by the statute. There is an argument to the contrary, including two very ancient Attorney General's opinions where the circumstances were different, but I submit that the words of the statute mean exactly what they say.

In any event we are amply justified in ignoring H. J. Res. 199. The attached copy of a letter from the Attorney General to the Director of the Budget sets out the reasons.

I submit this memorandum that you may be prepared for developments.

Respectfully,

T. L. GATCH,  
*Judge Advocate General of the Navy.*

*Memorandum for General Cramer.*

1. A statute of limitations can not be extended after it has run (*Falter v. U. S.*, 23 Fed. 2nd 420, 425; *Moore v. State*, 43 N. J. Law 203), the reason being that the prosecution being dead, the accused has a vested right to repose. Thus in civil cases it can not be extended once it has run.

2. The above distinction is recognized in the Federal statute of limitations, 18 U. S. C. 582, which prescribed a new statute of limitations and provided in so many words that it should not apply to offenses already barred but would apply to cases wherein "the existing statute of limitations had not yet fully run".

3. General Short's offenses were all barred under Article of War 39 on December 7, 1943, and the act of December 20, 1943, was powerless to revive the dead prosecution.

4. It is unthinkable that General Short would break his word not to assert the statute of limitations. If he did so, he would alienate any vestige of chance of acquittal by public opinion. But assuming he did assert the bar of the statute, it is believed the agreement would stand up on the following grounds:

a. There was ample consideration on both sides.

b. The statute of limitations does not deprive the court of jurisdiction; it is a mere defense which must be asserted (*Johnson v. U. S.*, 13 Fed. Cases 867, No. 7418). If pleaded, the court must sustain the plea before the prosecution is barred. It is unbelievable that where an accused has lulled the Government into security until the statute has run he would be allowed to reap the benefit of his own fraud.

c. The agreement might constitute a "manifest impediment" to trial within the meaning of Article of War 39. 14 Op. Atty. Gen. 265 discusses a manifest physical impediment but there is no reason why the impediment need be a physical one. Fraud on the part of the accused might very reasonably constitute a manifest impediment.

d. The accused's fraud would make him a fugitive from justice which traditionally stops the running of the statute. See 18 U. S. C. 583.

5. The real danger of the present legislation is that someone might construe it to be different from an ordinary statute of limitations and to deprive the courts of jurisdiction to try the offenders at any other time than the period as extended. This is a very real danger.

WM. J. HUGHES, Jr.,  
*Lieutenant Colonel, J. A. G. D.,*  
*Assistant Chief, Military Justice Division.*