EXHIBIT NO. 171

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- 19. Memorandum from Edwin Dickinson, Special Assistant to the Attorney General, to Captain Gatch, Assistant Judge Advocate General, Navy Department, dated 14 February 1942.
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 21. Alternative suggestions of language referred to in the Attorney General's memorandum to the Secretary of War, dated 14 February 1942.
- 22. Covering title sheet addressed to Assistant Solicitor General, Department of Justice.
- 23. Memorandum from Captain Gatch, Ass't. JAG, Navy Department, to Ass't Solicitor General, Department of Justice, dated 14 February 1942, with letter from Secretary of the Navy Knox to Rear Admiral Kimmel attached.
- 24. Letter from Secretary of War Stimson to Secretary of the Navy Knox
- dated 14 February 1942. 25. Memorandum from Secretary of the Navy Knox to Admiral Jacobs dated 7 February 1942 with attached memorandum for the Secretary on Stimson's memo by Admiral H. R. Stark, dated 31 January 1942.
- 26. Notes by H. L. Stimson after meeting at the White House January 28, 1942.
- 27. Letter from Rear Admiral Kimmel to Secretary of the Navy Knox dated 28 January 1942 with endorsement of the same date.
- 28. Letter from Rear Admiral Kimmel to Secretary of the Navy Knox dated 26 January 1942 with endorsement dated 27 January 1942.

280 Bronxville Road, Bronxville 8, N. Y., 8 September 1945.

From: Rear Admiral H. E. Kimmel, U. S. Navy (Retired)
To: The Secretary of the Navy.
Subject: General Court Martial in my case.

1. In view of the agitation for a Congressional Investigation before Congress reconvened and the action of the Senate in ordering a joint Congressional Investigation of Pearl Harbor, I wish to defer my reply to your letter of 28 August 1945 until that investigation is completed.

(S) H. E. KIMMEL.

TH MADE 1545 701 Ker Admiral United E. Cleal, B. W. , Ket. bjete word Court tial wyoor oase.

- l. In your letter of Sept her 1 3, to the Secretary of the Havy, you stated "It is my paraonal desira to trial by G wal Court Martial in open court at the earliest practicula date."
- 2. In his lett r to you the Secretary of the Navy we you his assurance that a trial before Ceneral Court Martial would be had at the earliest practicable d to that the public intere safety would permit. In view of the present state of the and in view of this communes of the Secretary of the avy court in the event that you still desire to be so tried.
- 3. It is requested that you dvise me promptly whether er not you desire to be tri by G neral Court Martial.

in da a forrestal

HPW NR 2734 FROM: DINCPAG

186328

CR 879 18 DEC 1941

TH 14

ACTION: PACFLT.

INFO: COM 14: SECNAY; BUNAY; GINCAF; CINCLANT

ROUTINE

ADMIRAL HUSBAND E KIMMEL HAULED BOWN HIS FLAG THIS DATE AND VICE ADMIRAL WILLIAM S PYE USN ASSUMED TEMPORARY COMMAND OF THE US PACIFIC FLEET IN ADDITION TO HIS PRESENT DUTIES

DISTRIBUTION .

MARK ANY REPLY RESTRICTED

89R, 18/11, 38, 29, 85, FILE

KITTEL, Musband H. Rear Admiral, USN (2207-):-Kn)

January 20, 1342

From:

Rear Admiral Husband E. Kimmel, U.S.N.

To:

The Secretary of the Navy

Subject:

Request for Retirement under the Provisions

of Section 1445 Revised Statutes.

- 1. After forty one years and eight months service in the inited States Navy, I hereby request that I be placed upon the retired list in accordance with the provisions of Section 1443 Revised Statut 's.
- I hold myself in readiness to perform any juty to which I may be assigned.

HUSBAND E. KIWADL

1st Endorse Cont

January 27, 1942

From: Commandant, Twelfth Naval : is wrict and Naval Op rating Base, San Francisco, California The Secretary of the Mavy To:

Subject: Request for Retirement under the Provisions of Section 1443 Pevised Statutes

1. Torwarded.

NAVY DEPARTMENT

IMMEDIATE RELECTE
PRESS AND RADIO

APRIL 14, 1944

PEARL HARBOR WITNESSES UNAVAILABLE DUE TO WAR ASSIGNMENTS

Secretary of the Navy Frank Knox has received a memorandum from Admiral Ernest J. King, U.S.N., Commander in Chief of the United States Fleet, in which Admiral King officially informed the Secretary that certain officers of the Navy now serving on battle fronts in various parts of the world, could not be withdrawn from their military duties in order to participate as members or witnesses in court martial proceedings in connection with the Japanese attack on Pearl Harbor on December 7, 1941.

In his consideration of the case of Rear Admiral Husband Kimmel, U.S.N. (Retired), and of the procuring of members and witnesses for a court martial, the Secretary had requested Admiral King to advise him as to the availability of certain officers should a court martial be convened.

Admiral King, answering the Secretary, said: "About half the officers listed are on duty at sea in command of forces engaged with the enemy and in accordance with planned operations. Others at sea are performing duties on the staffs of those commanders."

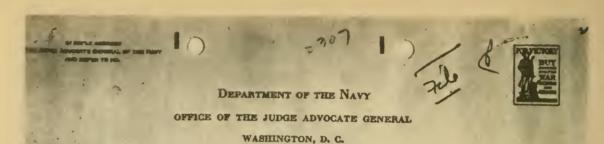
At his press conference on April 11, 1944, Secretary Knox was questioned in connection with Congress' extension of the time for trial of those involved in the Pearl Harbor catastrophe to June 7, 1944, and the Secretary said he would obtain the opinion of his legal advisers.

"I have discussed this matter with Rear Admiral Gatch, the Judge Advocate General of the Navy" said Secretary Knox, "and I have been advised by him that, inasmuch as Admiral Kimmel has long since signed an agreement not to interpose the statute of limitations as a bar to his trial, there is now no necessity to construe any acts of Congress on this subject."

The Secretary further explained that Admiral Thomas C. Hart, U.S.N., (Retired), is now in Hawaii pursuing his investigation into matters relating to the attack upon Pearl Harbor by the Japanese on December 7, 1941.

"I would certainly feel derelict in my duty if I took from the Fleet and the fighting fronts the officers whom Admiral King has placed in those positions," concluded the Secretary.

FOR COURT MARTIAL BUTT PROCEEDINGS



13 April 1944

MIMORANDUM FOR ADMIRAL KING

There has been a great deal of agitation in the press recently regarding the Pearl Harbor matter, with especial reference to the delay in the trial of Admiral Kimmel.

Particular attention is directed to the statements of Secretary Enox at his press conference on April 11, in which the Secretary is supposed to have said that he would refer the matter to the Attorney General for a legal opinion as he (the Secretary) "was confused".

It is submitted that inasmuch as Admiral Kimmel has signed a valid waiver of his right to plead the statute of limitations in bar of trial, there is now no need to "interpret" any Acts of Congress upon this subject — especially the one extending the time within which trial must take place.

Even though the Havy's case were complete in every respect, no action can now be taken for reasons you have already given, namely the non-availability of officers on duty at sea.

I have drafted a suggested press release which, I believe will do much toward settling this matter - for the duration of the war at least.

Judge Advocate General

57-1-31

P. L. Barry

10 5 t mber 1/4)

Tol

Rear A. area made to b. Kinnel, U.S.N., Ret., 280 Dronzville word, Bronzville, New York.

Sub ot:

Agreement of to plead the statute of Wimitati in par of trial by General Court Martial.

Reference (a)

Your letter of Sept. 7, 1923 and enclosure therewith.

l. Receipt is acknowledged of your letter, above referenced, with which you enclosed an agreement of the same date, bearing your signature, in the following language:

Fig. MUSBAND E. TIEMEL, hear Admiral, United States
Havy, Betired, hereby agree on my honor as an officer and
a gentleman that I mill not plead, nor permit any attorney
or other person on my behalf to plead, the statute of
limitations in her 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,
1961, should my trial be held during the present war or
within six (6) months thersefter.

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

2. The Secretary of the Navy understands and fully sympa issus with your personal desire to be brought to trial by general court martial in open court at the marliast practicable date for any alleged offenses with which you may be charged relating to your performance of duty in it before December 7th, light. He therefore appreciates and comments the justicities spirit in which you save valuatorily assumed the above bligation. This cotion on your parties in keeping with the heat baval traditions.

s/ Frank WHOX

CONYIDENTIAL

280 BRONXVILLE ROAD BRONXVILLE, NEW YORK

September 7th, 1943.

From:

Rear Admiral Husband E. Kimmel, U.S.N., Ret., 280 Bronxville Road, Bronxville, New York.

Tos

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

Reference

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

Agreement not to plend 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 vitnesses 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.

September 7th, 1943.

From:

Rear Admiral Husband E. Kimmel, U.S.N., Ret. The Secretary of the Navy

-2-

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,

Hu wind 5, 11 ing mer

Encl. (1)

13-1-7

Sapte or 7th, 185

Figleways 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 offiner 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 Wartish in open court for any alleged offenses with which I may be charged relating to the period on or before Dember 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.

The remind in Himmer

Was

Rear Admiral Busband B. Kimmel, U. Ret.

Subjects

GCM in your case.

Enclosure:

Form of agreement.

- 1. The report of the so-called Roberts Commission alleged certain derelictions of duty on your part. Your application for retirement was approved, and it was stated therein that the stion "will be no bar to your requesting a general court martial, or to the Navy Department's ordering you for trial should at be so determined." On February 28, 1942 I stated to the press that trial upon these charges would not be held until such time as the public interest and safety would permit.
- 2. The two year statute of limitations controlling naval courts martial will have run in your case on December 7, 1943, subject to the exception therein relating to cases in which there exists a "manifest impediment" to the trial of the accused. Therefore, if orders for your trial are not issued prior to the date stated, you could plead the statute of limitations in bar of trial, and its application to your case would have to be determined in the manner provided by law.
- 3. I think that the public interest and safety would now permit proceeding with your trial, but I further believe that 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. For this reason among others I feel that it would be to the best interests of all concerned if you should now agree not to plead the statute of limitations in bar of trial upon my assurance that the trial will be had at the earliest practicable date subsequent to the expiration of the two-year period.
- 4. If you agree with the foregoing your prompt return of enclosure is requested.

Frank & non

Essetved August 27, 1445.

I, HUSBAND E. KIMMEL, Rear Admiral, United States Mavy, Retired, bereby agree on my bonor as an officer and a gentleman that I will not plead the statute of limitations in bar of my trial by general court martial for any alleged offsnses I may have committed on or before December 7, 1941, should my trial be held during the present war or within six months thereafter, and that I will not permit any attorney or other person on my behalf to make such plea.

I make this agreement voluntarily, in recognition of the fact that during the present war and for the stated period thereafter it will be impracticable to obtain the attendance before a general court martial of witnesses who would be important for my defense, as well as witnesses required by the prosecution.

Received August 27, 1943 H. b. Him wel. In reply address not the signer of this letter, but Bureau of Naval Personnel, Navy Department, Washington, D. C. Refer to No.

- NAVY DEPARTMENT BUREAU OF NAVAL PERSONNEL

WASHINGTON, D. C.

17 August 1943.

CONFIDENTIAL.

Memorandum for

The Secretary of the Navy.

The attached memorandum brings up the question of the trial of Rear Admiral Kimmel, based on the findings of the Roberts Board.

In order to be sure that he be brought to trial, if such is desired, it is necessary that specifications and charges be preferred prior to 7 December, 1943.

If such charges are preferred, I am of the opinion that Admiral Kimmel will demand immediate trial.

I do not think it is in the national interest to permit this case to come to trial at present.

I have discussed this case with Admiral King, and he agrees with me that the final decision in the case must be made by the President.

PANDALL JACOBS.

A17

THE JUDIE ADVOCATE GENERAL OF THE NAVY
AND REFER TO NO.

J.G. n.J. r.d.



DEPARTMENT OF THE NAVY

OFFICE OF THE JUDGE ADVOCATE GENERAL

WASHINGTON, D. C.

4 August 1943

memorandum for Rear Admiral Randall Jacobs

Major General Myron C. Cramer, Judge Advocate General of the army, cade into my office this afternoon and stated that he had reported to General 'arshall that if any action is going to be taken relative to the trial by general court martial of General Short a determination should be arrived at because the Statute of Limitations expires on December 7, 1943. General Marshall stated that the matter would have to be taken up with Secretary Stimson and then asked General Graver to make inquiry as to what action the Navy Department was taking with respect to Admiral Kimmel for the reason that it would be advisable that the War Department and the Navy Department be in accord with the action that is to be taken.

General Cramer was informed that Captain Catch had been selected as the relief of Admiral Woodson as Judge Advocate General and in view of the importance of the matter I would immediately take the matter up with him. Likewise I advised General Cramer that in view of the fact that the subject was one affecting personnel presumably Captain Catch would want to take the matter up with Admiral Jacobs, the Chief of Naval Personnel. Furthermore, I expressed the view to General Cramer that the ultimate decision as to the action to be taken in the case of General Short and Admiral Kitmmel would be for the decision of the President of the United States, that the respective Secretaries would very likely be the ones to present the matter for the decision of the President and that the respective Secretaries might express their views as to the policy governing the action to be taken but that the President would render the decision to the Secretaries who in turn would then take such action as was determined upon.

. It so happened that upon the arrival of Captain Gatch you came in to my office and the above subject matter was discussed. You requested that a memorandum be prepared with respect thereto and that you in turn would take the matter up with Admiral Ernest J. King, Commander in Chief, United States Fleet, and Chief of Naval Operations.

3

JAG:AJ:rld

This memorandum consequently is being forwarded for your information and such instructions in the premises as are determined upon.

L. E. Bratton

Acting Judge Advocate General of the Navy

COMPANION OF A

-2-

NAVY DEPARTMENT

IMMEDIATE RELEASE

FEBRUARY 28, 1942

NAVY DEPARTMENT COMMUNIQUE NO. 47

The Navy Department issued the following communique:

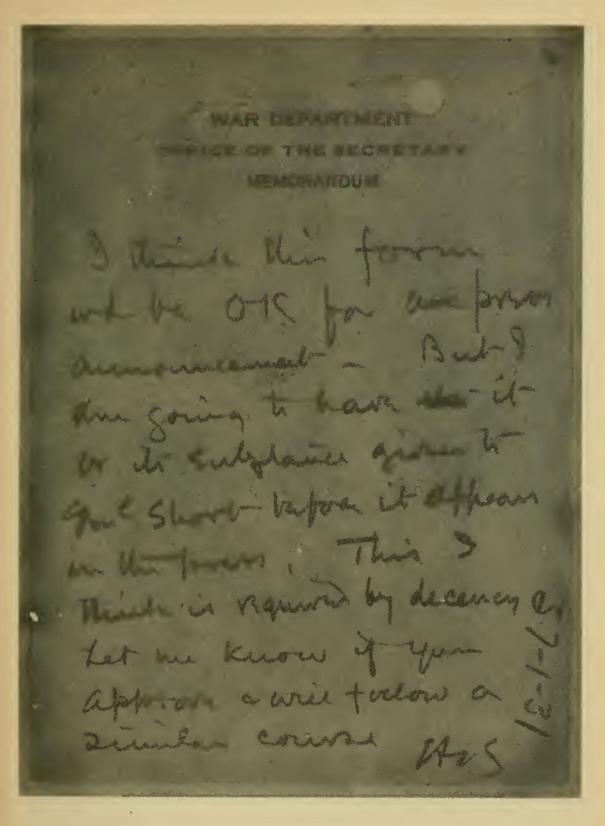
The Secretary of the Navy announced today the acceptance,

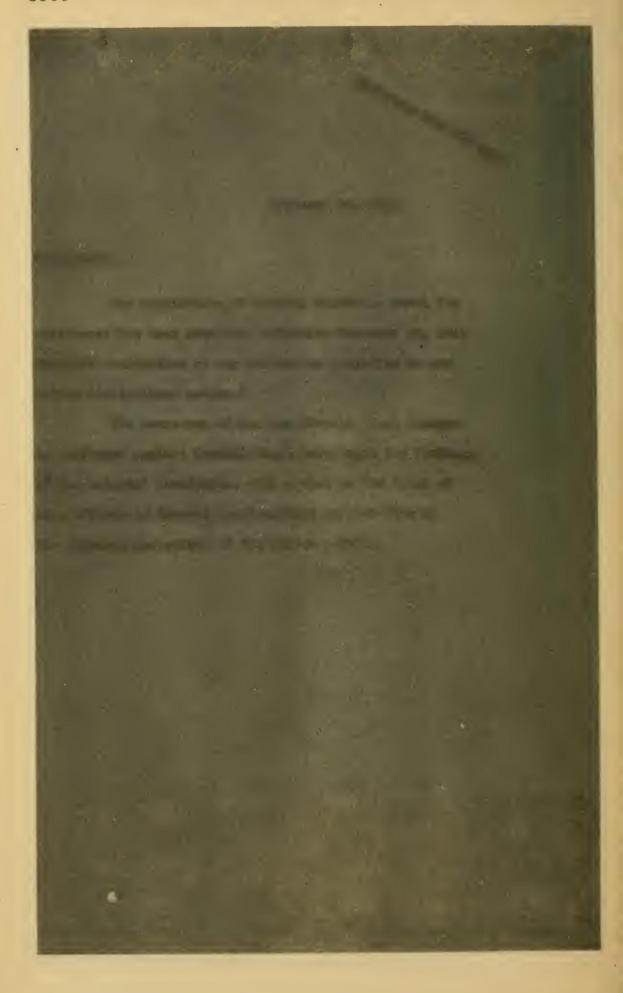
effective March 1, 1942, of the application for retirement of Rear

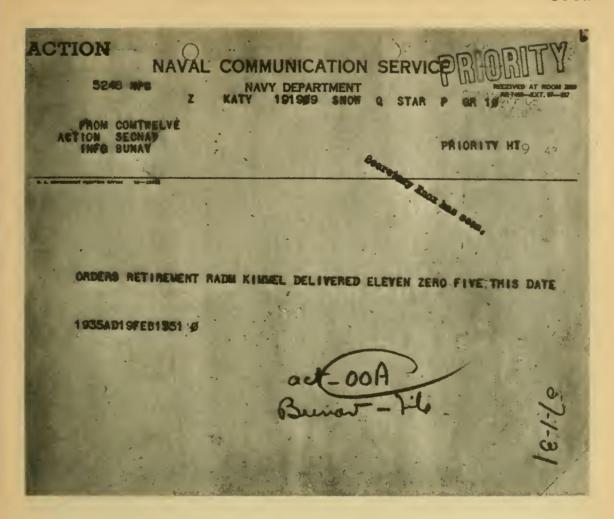
Admiral H. E. Kimmel, U.S. Navy, "without condonation of any offense
or prejudice to any future disciplinary action."

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 the 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.

* * * *







First Endorsement

February 17, 1942

From:

To:

The Chief of the Aureau of Mavigation.
Rear Admiral Husband E. Kimmel, U. S. Navy,

Twelfth Maval District.

Via:

The Commandant.

Subject:

Transfer to the Netired List after forty (40)

years' service.

1. Forwarded.

Sehminmy 16, 1940

Promi

The Secretary of the Savr

ser Admiral Musband . Nimnel, J. J. havy.

subject!

Transfer to the stired Ligt ofter forty (40)

years' service.

efere: cri

(r) Tour request for retirement, dated survey 26, 1942,

- 1. Your request to be transferred to the retired list after the completion of forty (40) years' service in accordance with the provisions of the Drawident, approved. You will be transferred to the retired list of officers of the inited states Texas 2 and 1, 1 10.
- 2. This eparaval of your request for retirement is without condonation of any offense or prejudice to future disciplinary action.
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Is, Frank Knox

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DEPARTMENT OF JUSTICE WASHINGTON, D. C.

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. Your file is retu sed here its.

For the Action Assistant () Solicit r General

Man . Tuch

Steel 1 Assist no to the Attorney General

COPY

February 14, 47

E . AN R . TH. SECF TARY . . AP:

I have liven only eraction to the limit of the injury detained to an concern a language to be the injury eraction with the adjectioned of the remesting ratherment which over been made by Admiral Kincel and General Short. In this concects. I have read the opinion and other local mentions which accommonly the new rendum.

It reads to be not the rection which may be reise as to a estimage (using the words "all ement court mortical proceedings") may be found to respect to the long of a surjection of "without or donation of my officeed. It is been eltotable refer noe to court mortial would in to that the reference to court mortial would in the total enforcemental that and the still wood efficient. If one if no fitting one, it is interested to the one of a surject to those of ideas that he reference to an if ensemble and invest to those of ideas that he fill that one ideas and invest to those of ideas that he of the section of a set of the mention of section or in the tree were stilly found here each to be a total reference of a tree tree more account.

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N. J. 1. 8

DEPARTMENT OF THE NAVY OFFICE OF THE JUDGE ADVOCATE GENERAL

MEMORANDUM

2-14-40

asst selicitor General

I understant the army is putting before you similar papers in the case of General anort.

the President wants the opinion of the President wants the opinion of the Attorney General whether or not the Secretary's letter attached will properly protect the interests of the country.

de would like this opinion Monday.

Respectfully,

ASST JAG, Lavy

THE SECRITARY D . NAVE

ProL: To:

the Secretary of the Lavy.

Lear Admiral Husband E. Himmel, t. J. Mavy.

Subject:

Transfer to the metired list after forty (40)

years * service.

Reference:

(a) Your request for retirement.

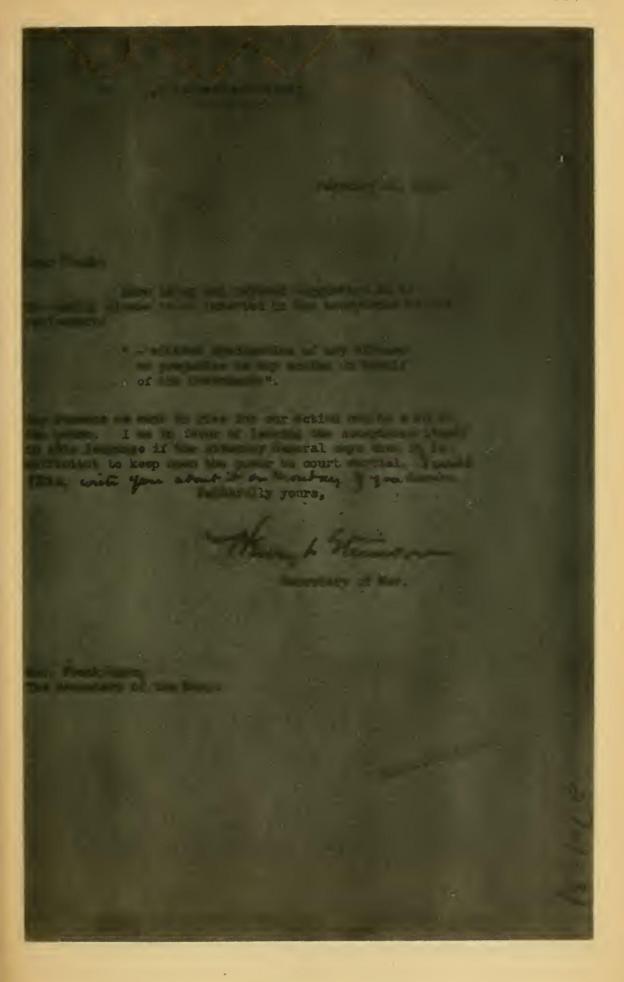
Your request to be transferred to the retired list after the completion of forty (40) years' service in accordance with the provisions of U. S. Code, Title 34, Section 381 is, by direction of the President, approved. You will be transferred to the retired list of officers of the United States May, as of Larch 1, 1942.

This action in approving your request for ratire-This action in approving your request for ratirement will be no bar to your requesting a general court martial, or to the Navy Department's ordering you for trial should it be so determined.

Acknowledgment of receipt is requested.

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CONFRAMENTAL TOPE CONTRACTOR



THE SECRETHRY OF THE NAVY

19 min 19 2 1 110

SECRET

.... A.DUR FURE AU . TAGE JACOBS

In attaching herevity a confidential meaning we dering with treatment of Advirol Rimmel and the program outlined in Secretary Stime his accommunity is the one which is being followed.

I wish you would hold this memorandum in confidence and to care to remind me to carry it out in the sections indicated.

ATTACHASHT

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with the followin:=

Most a week line and underly the profits that had been some edges of at a the the ristinct consit on other lessitions, which is restricted by the respective also divocate energy that the acceptance of their requests for retire ent to a not in my may our subsequent trial ground partial, and have expendent of the lowerment or by round of the individuals concerned. It may note: that betther officer has no firm as a for or an ested court martial. In any case a court martial in approximation, the case a court martial in approximation of the laidy at the time of me it would also describe the laidy like of all interpreted which unit are next from the energy."

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He then survey int is:

- both the Army was wavy must act alike on parellel linear
- (2) halt most a week and then announce that to officers have abolies for this immediate relies ment and that this is under consideration.
- (5) About a week later announce that the addications had been accepted but with the distinct condition (the legality of which is rutified to the respective Judge Advocate Generals) that this desired in any way bar a subsequent court martial. That the reason for this is the impossibility of court martial without the disclosure of military secrets and also that it would be impossible to give them a fair trial.

2. In the next place I told the President that I to plat that probably all other matters in the present excitement about the Pearl Harbor report would die down except the pressure for unity of com and. I teld him how I had treated a similar question last week by an off-the-record statement, taking care to disclose nothing except such matters as wouldn't do harm if they should leak. He agreed with this suggestion and off his own but suggested the same method of approach that I was, namely disclosure of the unity of command at Panama, in the Caribbean, and some other places up the coast.

Restricted His

sc 411 - \$1111

****** *** *** CUMPANTES

KIMMEL, Husband E. Rear Admiral, USM (2208-00-Kn)

SAN FRANCISCO . CALIFORNIA

January 28, 1942

From

Rear Admiral Husband B. Kimmel, U.S.N.

To:

The Secretary of the Mavy

Subject:

My Request for Retirement

References

(A) My ltr. to the Secretary of the Havy of 26 January 1942 requesting retirement under the provisions of Article 1443 Revised Statutes

- Reference (A) was submitted after I had been officially informed by the Navy Department that General Short had requested retirement.
- I was officially informed today by the Mavy Department that my notification of General Short's request was not intended to influence my decision to submit a similar request.
- I desire my request for retirement to stand, subject only to determination by the Department as to what course of action will best serve the interests of the country and the good of the service.

1st endorsement

January 28, 1942

From:

Commandant, Twelfth Naval District and Naval Operating Base, San Francisco, California The Secretary of the Navy

To:

Subject:

My Request for Retirement

1. Forwarded.

TR T TANE HEA & ARTE.

KIDMEL, Husband B. SAN FRANCING - CALIFORNIA (2207-00-Kn)

January 26, 1942

From: To:

Rear Admiral Husband E. Kimmel, U.S.N.

The Secretary of the Navy

Subject:

Request for Retirement under the Provisions of Section 1443 Revised Statutes.

After forty-one years and eight months service in the United States Navy, I hereby request that I be placed upon the retired list in accordance with the provisions of Section 1443 Revised Statutes.

I hold myself in readiness to perform any duty to which I may be assigned.

lst Endorsement

January 27, 1942

From: Commandant, Twelfth Naval District and Naval Operating Base, San Francisco, California

To: The Secretary of the Navy

JAN 19 424 mot: Request for Retirement under the Provisions of . Section 1443 Revised Statutes

Forwarded.