

General Donovan 56103

19 November 1945

MEMORANDUM to the Planning Committee

FROM Commander Donovan

1. Referring to the assignments of trial counsel set forth in your undated memorandum entitled "Order of Proof of the United States Case as Generally Approved by the Planning Committee," and to the memorandum of Mr. Justice Jackson dated 14 November 1945, under each of which I am responsible for visual presentation and motion picture evidence, I wish to submit to the Committee my present plan for the handling of these responsibilities as a member of your trial staff.

I

VISUAL PRESENTATION

This divides into two phases:

a) Evidentiary Charts

These charts we have prepared by working with the various sections. They are either (i) authenticated by defendants, witnesses, etc. (e. g., Nazi Party chart authenticated by Schwartz, Party Treasurer), (ii) copied from official Nazi handbooks (e. g., one on "Hitler Youth"), official documents (e. g., "the coffin chart"), etc., or (iii) clearly established by such data as official German decrees, etc. (e. g., "the German Government"). We now have such charts on every aspect of the case.

These charts are handled at trial exclusively by the particular trial counsel in charge of that aspect of the case. Some apparently plan to pass them up to the Tribunal; others are attaching them to their briefs.

Arrangements have been made with Colonel Dostert's translation unit under which properly translated charts will be available for the Tribunal, the other prosecutors, the press, etc.

b) Trial Exhibits

These are the large panels to be exhibited in the courtroom during the trial. Some are simplified versions of the evidentiary charts (e. g., a simplified version of the Nazi Party chart, also illustrating the Fuehrer Principle), others are summations of matters

to be proved by oral, documentary and photographic evidence (e. g., "The Aggressions of Germany"). Each panel is 60" long by 80" high; the charts have one, two or three panels.

The use of these exhibits will be determined by the trial counsel in charge of the particular aspect of the case, whom I will assist by making certain that the exhibits (which when in final form are held in a special room adjoining my office down the hall from the courtroom) are ready and are put in place at the proper moment. I have also discussed with certain of the counsel the use of some exhibits at several different but equally pertinent parts of the trial.

In line with a suggestion by Colonel Sterey, we are arranging to have the exhibits never on view until the proper moment (either behind a curtain or, in some cases necessarily, brought from the judge's robing room and speedily put in place).

The entire foregoing program is well in hand, with a large part of it completed and the remainder of the work proceeding on an sixteen-hour-a-day basis. We have established the proper priorities which should assure that each deadline will be met.

Our recommendation having been approved, that these exhibits be in English with small reproductions available in the other languages, we have made proper arrangements on this with Colonel Destert's office.

Of the staff working on these matters, many are military personnel who, as soon as they return to the United States, under a special order are to be discharged from the Army to enter the State Department as part of its new Presentation Unit. To do this they must be home in December, at the end of which the special order expires. They will not leave, however, until the entire program is completed about 1 December. They must then leave and the civilians will remain as a compact reserve unit to turn out any emergency jobs which may arise. All will leave at the end of the American part of the prosecution.

II

MOTION PICTURE EVIDENCE

A. General Plan

The general plan for presentation of the motion picture evidence is based upon the premise that because the films speak for themselves, the introduction of them should be as simple and brief as possible.

The films will be introduced at whatever stage of the trial the Planning Committee directs. The films, supporting affidavits and (in reserve) our expert witnesses, will be on hand. I will make a simple introductory statement (one paragraph) which I shall submit in advance to the Committee. There will be distributed throughout the courtroom a script of the film, properly translated, containing all narration on the sound track and any other matter which should be translated over the IBM system (e. g., German newspaper headlines in the "Nazi Plan"). This and the films will have been previously reviewed by the interpreters, under arrangements with Colonel Dostert's office, so that they can keep up with the film narration.

At the end of the film, if any arguments are made by defense counsel or any questions are asked by the Tribunal, (a) if the questions or arguments pertain to the particular aspect of the case in proof of which the film is submitted, they would be answered by the particular trial counsel in charge of that aspect of the case, and (b) if the questions or arguments pertain to the film itself, its making, etc., they would be answered by me.

Each of the films will be pre-viewed by defense counsel at a session to be attended by a representative of the Committee, the counsel in charge of the particular part of the case, and the undersigned.

B. Motion Picture Evidence

The films which may be offered in evidence are the following:

1. Concentration Camps: You are all familiar with this film. We have just completed its final revision and it is now in the Berlin laboratories, which are working in three eight-hour shifts of German civilians. The principal changes are

(a) the dropping of two weak PW camps sequences, and
(b) the adding of some new--and excellent--Mauthausen coverage, in which formerly we had only the shots of Lt. Jack Taylor. This film is due back here on 23 November, which should give us ample time to present it.

We have the affidavits to be used and also certain exhibits which we have made out of materials shown in the film sequence on Buchenwald (human skin hides with tattooed designs and a shrunken human head) to be exhibited after the film has been shown.

My judgment is that this film should be used in trial at the opening of the concentration camp case.

2. SS-Filmed Concentration Camp

This is an 8 mm. strip which runs for about a minute and a half. It is, in my opinion, the most gruesome evidence I have seen.

My judgment is that this be put in evidence at the very end of the case on concentration camps. (We will move into the courtroom an 8 mm. projector on a small table and a portable screen). It is my further judgment that the film is so short that we should ask the Tribunal's permission to run it twice so that all of the evidence is seen (certain of the scenes are complete confusion, with wholesale beatings).

The film has been untouched by us.

3. SS-Filmed Warsaw Ghetto

During German occupation of Warsaw, the Nazis decided to make a film on Jewish misery in the Warsaw Ghetto. They did so, compelling the unfortunate Jews to participate.

No Germans are seen in the film except for a brief shot of a German military photographer, apparently overlooked in the cutting. We are told in Berlin that the original coverage included many shots of SS men, but that they were cut and destroyed on orders from Goebbels.

In the film are seen policemen, who administer vicious beatings. They wear a Star of David on their arms and the Nazis apparently wished to give the impression of Jewish cruelty to Jews. In any event, the fact that they staged the whole thing is established by an affidavit of a Polish Jew who was there when the film was made, and just what explanation the defense counsel could make of their having photographed Jewish misery during German occupation of Warsaw is difficult to see.

The film is marked "Top Secret" by the Germans (first reel opens with that on screen) and we have the original German box in which the film was kept with "Secret" on the outside.

My judgment would be that this film should be used at the end of the case on the persecution of the Jews.

We have not touched this film and have the original available here.

4. Trial of July 20 Plotters

This is a twenty-minute version of the complete three-and-one-half hour German original. It offers evidence of how a People's Court operated, and conclusively establishes the manner in which Hans Frank wrecked the German judicial system. This is wholly apart from the fact that it also has testimony of one defendant on how he turned against Hitler after seeing the murders committed in Poland.

My recommendation is that this be used either when the case against Frank is presented or else that if at any time the defense counsel get out of hand and are complaining about the entire proceeding, we offer to show the Tribunal the Nazi courts in operation.

This film is not finished but will be within about two-and-a-half weeks.

5. The Nazi Plan

This film has not been seen by any of the Committee, although most of you have seen the materials from which it is being made.

When completed it will be in two parts and will be designed as a photographic summation of the American case. Each part will be an hour and a half long (only twenty minutes longer than the present Concentration Camp film). It is planned to offer the

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first part in evidence on the morning of the last day of the American case, allow time for any argument plus the luncheon recess, then begin the second part at 2:00 p. m.

Without setting forth all the reasons why the film should be shown this way, I do wish to say that the plan was made after exhaustive discussions in our Photographic Evidence Branch with both the over-all legal case and motion picture matters (audience interest, etc.) in mind. I have yet to hear any compelling argument to the contrary, the sole difficulty to date being that men who have been working on particular parts of the case naturally want to use, in their part of the trial, some part or parts of the film as evidence. Our judgment is based on what would be best for the over-all case.

I would like to say further that in the memorandum of the Committee entitled "Order of Proof of the United States Case as Generally Approved by the Planning Committee", reference is made to the fact that "special consideration is being given" to this film "with the possibility that it will be presented in two parts". I should like to suggest that when next such consideration is being given to the film, we be called in consultation with the Board so as to explain in detail the reasons for our judgment.

Summary

Approval of the foregoing, or discussion of any part of it, if necessary, is respectfully requested.

James B. Donovan
Commander, USNR