

APC 403, U. S. Army
19 September 1945

MEMORANDUM FOR: Mr. Justice Jackson

Subject: Indictment

A copy of the indictment has been hurriedly examined by this Division since it was delivered yesterday afternoon, and the following general suggestions are made:

1. GENERAL: The outline is excellent. Perhaps the narrative in the pre-1933 period could be compressed. Generally, it appears too long. However, the chronological arrangement is good and the division into periods and breakdown into the several subjects is a most logical approach, both from the legal and public interest angles.

2. ORGANIZATIONS: Mr. Albrecht and some of our staff who are familiar with party organization think serious consideration should be given to including the NSDAP as a criminal organization, particularly because some of the organizations charged, such as the SS and SD, are simply instrumentalities of the party with no standing as legal entities.

3. PRE-1933 PERIOD: It appears that Paragraph III has too much detail and if the prosecution was required to prove all of the events alleged, the proof of some of the events would be an unnecessary burden.

4. INDIVIDUAL DEFENDANTS: There is too much biographical data alleged concerning most of the defendants and too few actual criminal acts alleged. For example, the charge of the count against Hermann Goering alleges with reference to the Luftwaffe as an instrument of aggression, Goering was responsible "in planning the indiscriminate bombing of such cities as Rotterdam in May 1940 and numerous English cities, above all London, from the summer of 1940 on." Another specific charge is that he was responsible as commander-in-chief of the Luftwaffe for the launching of V-1 and

V-2 bombs against non-military objectives. It would appear wise to eliminate such general statements, especially upon such controversial matter as to whether or not the individual acts of the Armed Forces would be denounced as aggressive war.

5. CRIMINAL ORGANIZATIONS: If the NSDAP is not to be charged as a criminal organization, then the organizations charged, including SD and SS, should be more closely identified with the party organization of the NSDAP.

6. VIOLATION OF TREATIES: This annex appears to be in good form. Detail is eliminated and specific acts charged.

RECOMMENDATIONS

1. That the entire indictment be reconsidered with reference to the evidence developed to date by Interrogation and Documents.

2. That with reference to charges upon which evidence is available that the specific offenses by the accused be charged.

3. That appropriate representatives from the Interrogation and Documentation Division be designated to collaborate with the committee upon the final preparation of the indictment.

Robert G. Storey
Chief
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