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Schach

26 October 1945

TO : General Donovan

FROM: Dr. von Schlabrendorff

SUBJECT: Proposal for the prosecution before the International
Military Tribunal

If I were put in a position to rework indictment Nr. I before the International Military Tribunal, I should proceed as follows:

On page No. 1 (I quote the pages according to the German translation) I should omit the names of the following accused: Schacht, Krupp, Papen, Neurath. I cannot sufficiently judge the accused Raeder and Doenitz. I merely know that they had a bad reputation in the Wehrmacht (German Army and Navy). Furthermore I should omit the Generalstaff and the High Command of the Wehrmacht under Page 1, "II". Furthermore, I should not say the "Reichsregierung", but the "Reichsregierung in its composition as of January 1945."

On page 2 I should convert the first sentence into two separate sentences to read as follows:

"All the accused together with other persons have during a period of years prior to 8 May 1945 participated as leaders, organizers, instigators and accomplices in the planning and execution of a common scheme or conspiracy, which had as its goal the establishment of a criminal dictatorship over Germany, Europe and the world. This conspiracy brought with it the execution of crimes against the peace,..... etc."

On page 3 under "B" I should continue as follows after the colon (i) "to subjugate the German Reich and people after depriving them of their liberty, (ii) to cancel and destroy all international treaties including the Treaty of Versailles, and thereby to stamp into the

ground the principles of trust and good faith both within Germany and all over the world, etc."

On page 4 I I should alter the first sentence under "C" as follows:

"To win other persons to participate in the common plan or conspiracy and to secure unlimited power for the Nazis over the German people, certain principles were established, spread and utilized, among them the following; etc."

On page 5 I should formulate the second sentence under "2" as follows:

"After the Reichstag fire instigated by the Nazis on 28 February 1933, the articles of the Weimar constitution guaranteeing personal liberty, freedom of speech, of the press, the right to organize and the right of assembly were temporarily suspended."

On page 6 I should add the following observation under "a" after the first sentence: "The elections were falsified by order of Hitler and pressure was applied to the manner in which the election was held. This fact can be certified by Ministerialrat Pohlmann, whose last residence was in Goeppingen, Wuerttemberg."

I should also alter the sentence on the bottom of page 14 and the top of page 15, since Hitler was convinced in August 1939 that England and France would not enter the war. This can be certified by Ambassador Paul Schmidt. I would, therefore, suggest to change this sentence as follows: "Nevertheless, it was agreed that England would be inimical to these aspirations, and that (in spite of the fact that Hitler did not believe in English and French interference, war would be inevitable). It would, therefore, be necessary to overwhelm France and England by means of a "Blitzkrieg".

On page 15 I I would include the following observation under "b" after the first sentence: "Hitler gave orders to the leader of the Abwehr (Wehrmacht Security Service), Admiral Canaris, to have German agents in Polish uniforms assault German civilians in Poland, to have an excuse for his planned attack. Since Admiral

Canaris refused, Hitler, however, executed the order, the alleged attacks of the Poles upon Germans came about.

I should change the last sentence on page 16 as follows: "The above mentioned crimes were committed by SS troops in the wake of the forces of the German Army in accordance with the orders of the Nazi-Government."

I can testify to the remarks on page 16a of the indictment as follows: In the fall of 1941 I was ordered to accompany the ambassador and general Oshima on a trip to the Russian front. At that time Oshima told me that he was pressed by Ribbentrop to do everything to bring about the entry of Japan into the war against America. Later on in 1943 this was confirmed to me by the first assistant of the Japanese military attache in Berlin.

When it is claimed on page 18 under "V" that all defendants are guilty of war crimes, I believe that the defense of Schacht, Papen and Neurath will be able to counter with good reasons of their own.

The same is valid for the statement made on page 19 under "A" that the defendants are guilty of systematic terrorizing of civilians.

On page 20, paragraph 4, the "Night and Fog" order is mentioned. This order has been given by Keitel personally.

The General Staff and the High Command have repeatedly objected to the crimes mentioned on page 24, as for example the murdering of 7000 Jews at Berrissow.

The order of Hitler to annihilate the city of Moscow with its total civilian population by flooding, is missing on page 26.

On page 30 under "C" the following orders are missing: 1) Shooting of the captured Russian Commissars, 2) Shooting of Russian prisoners if they were members of the Communist party, 3) the order to shoot all parachute troops.

The claim made on page 32 about the shooting of captured Polish officers is not true, as can be proven.

On page 41 the order of Hitler to attack civilian centers, above all, has not been mentioned.

The cruelties against the civilian population of occupied countries are mentioned on page 44. I call attention to the fact that the General Staff has fought against this, especially General von Falkenhausen.

The crimes against humanity on page 46 with regard to Schacht, Papen and Neurath cannot be proven. Schacht has helped the Jews in Germany many times.

A good witness regarding the persecutions in concentration camps is Prince Philip of Hessen.

On page 48, paragraph 2, sentence 1, I should like to add the names of General von Schleicher, General von Bredow and Admiral Canaris. The indictments mentioned in Appendix A against the first 24 defendants are not sufficiently substantial. To bring about a conviction I think it is necessary to mention besides the general accusation concrete indictments, which means a more thorough substantiation of the accusations.

The defendants Schacht, Papen, Neurath, Krupp cannot be placed into the same category as Goering, Kaltenbrunner, Streicher and Keitel.

When criminal groups are mentioned in Appendix "B", it appears necessary to me to limit the indictment regarding the Reich Government to the Reich Government beginning with January 1, 1945.

I should drop the indictment against the General Staff and the High Command of the German Army.

These proposals are based upon the following point of view: Each military leader will consider before the battle where his weak points are and what measures the enemy may take. In the same way each defense counsel in a civil court action will consider the arguments of the opponent which he might have to contend with. For the same reason the prosecution will examine the weak points of the indictment and the arguments the defense will use.

von Schlabrendorff

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