

A. Donovan

Nurnberg, Germany
2 November 1945

MEMORANDUM FOR THE BOARD OF REVIEW

SUBJECT: USE OF INTERROGATIONS AT TRIAL

There are four principal uses at the Trial for the interrogations previously made of defendants and witnesses:

- A. Authentication of Documents
- B. Admissions and cross examinations of defendants
- C. Impeachment
- D. Substantive proof of allegations of the Indictment

There are six possible methods of using these interrogations at the trial which will be separately considered:

First - to introduce the desired interrogations in their entirety. There are two disadvantages to this procedure; first, the problem of translating so much material and second, possible displeasure of the Court at receiving so much material in bulk. There are, however, two corresponding advantages to this procedure. First it may be utilized materially to shorten the scope of the testimony to be given by the defendants on their own behalf since it may be argued that they already have been given an opportunity to explain their position and defense in the course of the interrogations. The second advantage is that as a matter of historical record it will be apparent that the defendants were given an opportunity to say whatever they wished. The disadvantages of subjecting the Court to such a large bulk of material might be obviated by attaching to the interrogations copies of the summaries which are currently being made thereof.

Second - to introduce in evidence selected excerpts from the interrogations. This would appear to be impracticable if for no reason other than that it would doubtless be urged by defense counsel with some justification that this was unfair to the defendants. Such an argument would probably result in demands that the entire interrogation be accepted or else none of it.

Third - to put the interpreters on the stand as witnesses to testify orally to what was said by the defendants in the course of their various interrogations. This procedure has the distinct advantage of permitting us to select only such portions of the interrogations as we desire and of making many possible last minute changes in what may be desired. The principal disadvantage, however, is that in many instances the interpreters might not make an impressive appearance on the stand.

Fourth - to put the interrogators or reporters themselves on the stand as witnesses to testify orally to what was said by the defendants in the course of their various interrogations. Under this procedure the testimony of the interrogators or reporters would have to be supplemented by brief oral testimony of the interpreters to the effect that they had truly, correctly and completely interpreted the defendants' testimony. A possible disadvantage of this procedure is that it might be said that the interrogators themselves were not proper or impartial witnesses. There would not appear to be much to this argument, however, when it is considered that the interrogators would be merely reading actual testimony. This disadvantage might be obviated by having some disinterested third party merely read the desired testimony into the record instead of the interrogators.

Fifth - to conduct new and abbreviated interrogations covering only particular points desired. This would appear to be impracticable because of lack of time to complete and translate new interrogations and also because of the fact that the defendants might well refuse to subject themselves to such further interrogations.

Sixth - to attach some sort of a certificate to the documents sought to be authenticated bearing pertinent excerpts from the interrogations.

After consideration of the foregoing, I am inclined to recommend the third or fourth procedures.

JOHN HARLAN MIEN
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