MEMORANDUM

TO: Special List
FROM: General Counsel
SUBJECT: War Crimes Information Memorandum #3

Since the circulation of previous information memoranda, much has been accomplished in bringing Axis war criminals to trial, and in forming public opinion in support of an American public policy favoring fair trials for all those charged with war crimes.

A major step forward occurred on 2 May 1945 with the appointment, by President Truman, of Mr. Justice Robert H. Jackson of the Supreme Court of the United States, as "Chief of Counsel for the United States in preparing and prosecuting the charges of atrocities and war crimes against such of the leaders of the European Axis powers, and their principal agents and accessories, as the United States may agree with any of the United Nations to bring to trial before an international military tribunal."

In his public announcement of Mr. Justice Jackson's appointment, the President made clear the policy of the country respecting "war criminals," as well as the precise field of Mr. Justice Jackson's activities. The President stated:

"Pursuant to the Moscow Declaration of November 1, 1943, all war criminals against whom there is sufficient proof of personal participation in specific atrocities are to be returned to the countries where their crimes were committed, to be judged and punished by those countries themselves. These cases are not involved in this assignment.

"There are left, however, the cases of other war criminals -- particularly the major war criminals and their principal agents and accessories, whose offenses have no particular geographical localization.

"I hope and expect that an international military tribunal will soon be organized to try this second category of war criminals. It will be Justice Jackson's responsibility to represent the United States in preparing and presenting the case before such military tribunal."
Immediately upon his appointment, Mr. Justice Jackson visited the European Theater of Operations with a view to stimulating the preparation of such phases of the case as will have to be undertaken abroad, and he has been in touch with the United Nations War Crimes Commission in London and with counsel appointed to represent the United Kingdom in the joint prosecution. Justice Jackson returned early in June and on June 7 submitted to the President his now famous report which has been acclaimed throughout the country. This report is an important guide to all members of the staff who will be engaged in the work of preparing the case of the prosecution, particularly in connection with the 'international case,' and is attached hereto.

Upon his designation as "Chief of Counsel for the United States," Mr. Justice Jackson selected the Director of OSS and two other principal assistants to aid him in preparing and prosecuting the case against the major war criminals.

There is being formed in the Office of General Counsel a legal staff which will include legal experts in various phases of comparative, civil and international law who are familiarizing themselves with the historical development of the over-all National Socialist conspiracy against the civilized world.

Mr. Justice Jackson has stated that no substantial differences exist between the United Kingdom and ourselves; that the provisional French Government has accepted in principle the American proposal for trials before an international military tribunal; and that so far as the Soviet Government is concerned, "there is no reason to doubt that it will unite in the prosecution." Mr. Justice Jackson also stated that provision would be made for others of the United Nations to become adherents to the protocol, once adopted by the principal powers.

Another development of great import was the visit to concentration camps in Germany by a committee of senators and members of the House of Representatives at the request of General Eisenhower. This committee, under the leadership of Majority Leader Senator Alben W. Barkley of Kentucky, reported on 15 May 1945 to Congress on its observations of conditions at Buchenwald, Nordhausen and Dachau, in part, as follows:

"These camps, on the whole, were conducted and controlled by the SS troops and the Gestapo, who acted under orders from their superiors or who were given wide discretion in the methods which they were to adopt in perpetrating these hideous and inhuman sufferings.

"It is the opinion of our committee that these practices constituted no less than organized crime against civilization and humanity and that those who were responsible for them should have meted out to them swift, certain, and adequate punishment."
"We found that the propagation of the Nazi theories and the practices which were carried forward under those theories created within Germany a disregard for human rights and for the dignity of the individual human being, which not only degraded the life of the people within the German Reich but which was inevitably calculated to bring about war between Germany and her neighbors and was calculated also to subject the conquered nations to the brutalities and indignities which struck fear and terror into the hearts of those who might otherwise oppose these policies, which we have attempted to describe."

The Jackson report which the President has "accepted," may now be taken as declaring the public policy of the United States on the subject of the trial of Axis war criminals.

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