

2 November 1945

MEMORANDUM FOR MR. JUSTICE JACKSON.

Subject: Order of Presentation at Trial.

1. In connection with the work in Section 3 relating to aggressive war, I have found it necessary to think about the relationship of the material being handled by Section 3 with the case as a whole, and thus have been led to think about the problem of Order of Presentation for the case as a whole. Some suggestions have occurred to me which I think may be worth consideration.

2. The following Order of Presentation is suggested as having much to commend it:

(a) After the necessary preliminaries and appropriate opening statements, introduce the *Dramatis Personae*, i.e. call each defendant to the witness stand. This is what the world is waiting to see. At this point, however, each witness's testimony should be strictly confined to a brief curriculum vitae, establishing his official positions.

(b) Thereupon begin with the case proper as all great epics are begun, in medias res, by establishing the aggressive war case rather than by starting with the beginning of the conspiracy:

First: Present singly (with appropriate witnesses on the stand) 4 or 5 "pin-up" documents which prove their part of the case up to the hilt, e.g., the Hozsbach document, the Schmundt file, and the Schmundt minutes of a meeting on May 23, 1939 (Document Nos. PS-386, PS-388, and L-79).

Second: Present a few documents showing Germany's incitement of Japan and resulting war with the United States.

Third: Having thus established conclusively the aggressive character of the war and its premeditation, as well as the American involvement via Japan, present dramatically the atrocities which followed in its

wake by presenting (a) the concentration camp motion picture, and (b) the photographically supported report on elimination of the Warsaw Ghetto.

(c) Having thus conclusively established the case in its essence, by evidence bringing out the essential elements in bold relief, move back to a more or less chronological presentation of Count 1, developing the subject matter in about the same order as alleged in the Indictment. When the aggressive war case is reached in due course, the few "pin-up" documents already introduced can be referred to again in the setting provided by the related documents supporting the aggressive war case.

3. By this means we would first make a dramatic and conclusive demonstration in outline form of the crimes committed. Having satisfied the Tribunal and the world by compelling evidence of the net product of the Nazi system, we would begin to gather up the threads of the tapestry, fill in the details, and show how the Nazis came to power and were able to do the deed.

SIDNEY J. KAPLAN  
Comdr., USCGR  
Chief, Section 3

cc: General Donovan  
Mr. Alderman  
Mr. Shea  
Col. Taylor  
Comdr. Donovan  
Mr. Dean  
Review Board