

54.02

MEMORANDUM

25 October 1945

TO: Justice Jackson

SUBJECT: Attached letter

If you really want to say some of the more personal references, the letter is all right as it stands.

You may wish to consider the deletion of paragraph 1 of page 2 except the phrase "the tide fast approaches when I must return to the Supreme Court."

Also to eliminate the sentence in the middle of the second paragraph of page 3 - "I have no appropriation . . . etc."

This because of your statement at the time that you wanted a minimum of administrative work.

WILLIAM J. DONOVAN
Major General, USA

WJD/jes

*Go D. checks letter
to Major Gen Bell
in file, in Gen Bell's*

25 October 1945

Brigadier General E. C. Betts
Room 331

My dear General Betts:

I am in agreement with your letter of October 19, 1945, insofar as it suggests the immediate need for placing responsibility for conducting the proceedings against Axis criminals supplemental to the pending Nurnberg trials. A failure to follow through as to members of convicted organizations and as to other major criminals which could not be included in the present trial would discredit the whole effort.

As to the proposed alternative methods of handling the problem, I would make these observations:

Your suggested second method (to create now a separate organization) seems open to serious objections. There is certainly that a new organization would compete with the present one for personnel, servicing, and various priorities. There is possibility of actual conflict in policy and treatment of cases. Some coordinating authority over the two might be necessary. New organizations, new coordinating mechanisms would create new demands on the energies of all of us and add to public confusion. Then, too, much of our personnel is committed only for the duration of this organization's effort. A transfer or request for re-commitment to a new effort would meet with substantial resistance.

Your suggested "preferred solution" (that the present Chief of Counsel be given extended responsibilities) is not welcome to me personally. I cannot personally assume new responsibilities and the time fast approaches when I must return to the Supreme Court. The completion of the Nurnberg trials marks the earliest point of break with the work for me.

Although I cannot escape the conclusion that the logical way to meet the American responsibility is through the Office of Chief of Counsel, certain difficulties would have to be resolved before I would feel justified in taking additional duties on that office.

The success of this work, no matter by whom undertaken, will depend on personnel availability. I am informed that considerably over 100,000 members of accused organizations are now in United States custody. It will require a large, competent, and highly mobile staff. We have had the greatest difficulty in getting and never did get until far too late, adequate technically trained persons such as court reporters, translators, interpreters, and the like. Exacting regulations for release from service have caused a high turnover in our service help, and this turnover not only takes away competent help, but demoralizes those who remain. We shall probably get through the Nurnberg trials only because of the momentum, the personal loyalty of many and of the interest of others in the novel procedure. Those incentives will not carry over into the routine follow-up work, no matter who does it.

This personnel problem in the European Theater is not widely understood in Washington as you men have understood it. The fact is, the whole usefulness of American victory will be jeopardized if a few men are given responsibility before the German people, before our Allies and before our own people and then the staff competent to discharge the responsibility is pulled out from under us. I am now feeling exactly as I have when I have ridden my horse into quick sand. I have no appropriation for my work and am dependent on loans of personnel. It melts away almost as fast as recruited. If this office were to take on new duties, there must be some assurances that adequate incentives, financial or otherwise, may be offered to get good staff and adequate assurance of funds to do so. I confess I do not know how this condition can be met in Washington, but it is an indispensable condition to the assumption of any new responsibility.

The first question is what part of this work can be done by manpower already available to us in the European Theatre which can be relied upon to stay for the duration of the job. To start new recruitments now in Washington is impossible for me. I have already about exhausted resources there and cannot divert my time at this stage of the Nurnberg trial to new recruitments. The possibilities seem discouraging to me, as I have examined them since talking with you. They size up about as follows:

Without awaiting completion of the Nurnberg trials, appropriate action should be taken to push to completion the work of apprehension, interrogation and classification of all members of indicted organizations, procuring the admission of voluntary membership, rank, service, etc., wherever possible. This would enable prompt proceedings with the membership cases whenever a judgment of conviction of an organization is handed down. Tribunals for hearing their cases and staff for translating, interpreting and reporting trials should be planned for readiness to hear the cases. In the meantime, also, it is desirable that efforts be continued to establish a uniform policy for the disposition of membership cases. I have no staff adequate to do this job of interrogation and classification which seems to me best done by G-2, JAG or Military Government. I should want to know definitely what responsibility will be assumed for this work, by whom, and when it could be completed as a basis for deciding whether my office could meet the responsibility proposed.

Another phase concerns the prosecution of higher level defendants where individual trials might be necessary before American Military Commission. I do not at present have surplus trial lawyers of suitable experience to undertake this and, of course, must give priority to the Nurnberg work. This preparation should be going on now if a dead line of June 1946 is to be complied with. Doubtless some could be recruited in the United States but it would take time which I cannot divert from the Nurnberg trial.

I should want to find and agree upon a man of suitable stature to take complete charge of any additional responsibilities now as well as when I quit, for I cannot take more on myself in justice to the trial which is my present commitment. There is difficulty in taking any of my top staff for it now without interfering with his preparation of the Nurnberg case.

My hasty inquiries into the personnel situation frankly frightens me. General Donovan is going to make a survey and let me know what he finds as to the possibility of getting the membership cases prepared by the Army as I have indicated. We

cannot do that with any organization of interrogators, interpreters, reporters, stenographers and lawyers that we now have or which I see any fair prospect of getting. I think General Donovan will see you soon and will let you know what we can promise based on what he finds.