

OFFICIAL:

[Signed] G. H. Garde
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Lieutenant Colonel, AGD
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UNITED STATES MILITARY TRIBUNALS
SITTING IN THE PALACE OF JUSTICE,
NURNBERG, GERMANY
AT A SESSION OF MILITARY TRIBUNAL II
HELD 14 JULY 1948, IN CHAMBERS

The United States of America
vs.
Oswald Pohl, et al., Defendants.

Order Permitting Defendants to File Additional Briefs

Case No. 4

On 7 June 1948 General Lucius D. Clay, Military Governor of the U.S. Zone of Occupation, issued General Order No. 52, ordering this Tribunal to convene at Nurnberg, Germany, on or about 12 July 1948 for the purpose of permitting such reconsideration and revision of its judgment as may be appropriate in the case of United States of America *vs.* Oswald Pohl, et al., Case 4.

In pursuance of that order, Tribunal II has reconvened at the Palace of Justice in Nurnberg to carry out the mandate of the Military Governor.

The record in this case discloses that at the conclusion of the proofs, each defense counsel was allowed 1½ hours to present oral closing arguments with the exception of counsel for defendant Pohl, who was allowed 3 hours. The thoroughness with which the respective cases for the defendants were argued is shown by the number of typewritten pages of the several written arguments.

Oswald Pohl	152 pages
August Frank	79 pages
Georg Loerner	63 pages
Heinz Karl Fanslau	19 pages
Hans Loerner	18 pages
Erwin Tschentscher	56 pages
Max Kiefer	36 pages
Franz Eirenschmalz	50 pages
Karl Sommer	54 pages
Hermann Pook	22 pages

Hans Baier	41 pages
Hans Hohberg	63 pages
Leo Volk	55 pages
Karl Mummmenthey	33 pages
Hans Bobermin	55 pages
Josef Vogt	39 pages
Rudolf Scheide	43 pages
Horst Klein	31 pages

Total 909 pages

The transcript of the closing argument for the prosecution against all defendants comprises 73 pages.

The transcripts of these arguments were in the hands of the Tribunal at all times while considering its judgment and were given an attentive reading. These were considered in the nature of trial briefs.

The record also discloses (*Tr. p. 6253*) that on 15 August 1947 the Tribunal stated in open Court:

“This Tribunal does not need both a closing argument and a brief from either prosecution or defense. You say what you want in your closing argument. We will have a transcript of it, and we do not want a repetition of it in the way of a brief after that”.

Subsequent to the rendition of the judgment on 3 November 1947, each of the defendants found guilty therein filed petition and appeal with the Military Governor of the U.S. Zone of Occupation. In such petitions and appeals two of said defendants claimed that as to them the Tribunal had made use of briefs filed by the prosecution after the taking of proofs and oral arguments were concluded, in the preparation of its judgment. The remaining thirteen of the convicted defendants made no such claim. Two of the defendants, Pook and Klein, actually filed written briefs in reply to the prosecution briefs.

In conformity with the policy of the Tribunal to afford defense counsel every possible opportunity to present full and complete arguments in behalf of the defense, such counsel as wish to do so will now be permitted to prepare and submit briefs in reply to the prosecution's briefs. If, after fully considering such defense briefs, it should appear to the Tribunal that the judgment heretofore entered as to any defendant is not then supported by the evidence and that his guilt has not then been proved beyond a reasonable doubt, or that the sentence imposed is unjust, the Tribunal will thereupon vacate, modify, or amend the judgment now entered in accordance with the facts and the law as so determined.

It is understood, of course, that as to the defendants, Vogt, Scheide, and Klein, who were acquitted, this has no application. Having once been acquitted, they cannot be again put in jeopardy. It is further understood that this is not in any way a retrial of the case, but is merely a supplementary proceeding for the limited and specific purpose herein referred to. Defense counsel have heretofore received translations into German of the prosecution briefs. It is true also that the right to a review by the Military Governor of the original sentence and of any modified or amended sentence which may be hereafter entered remains intact and unimpaired. The Tribunal will receive and consider any briefs filed in conformity herewith, provided such briefs are in the hands of the translation division on or before Friday, 30 July 1948. The Tribunal will then await the translation into English of such briefs as soon thereafter as possible.

The Secretary General will direct the Marshal to immediately serve copies of this order on the respective defense counsel.

[Signed] ROBERT M. TOMS
Presiding Judge

[Signed] FITZROY D. PHILLIPS
Judge

[Signed] M. A. MUSMANNO
Judge