May 15, 1947

My dear Mr. Secretary:

The President on May fifteenth signed an Executive Order entitled "Appoint- ment of a Member of a Military Tribunal Established for the Trial and Punishment of Major War Criminals in Germany," a copy of which is enclosed.

Very sincerely yours,

M. C. LEHTA
Executive Clerk

The Honorable
The Secretary of War, x3-3
Washington, D. C.

Reference.
The President,

The White House.

My dear Mr. President:

I am transmitting a proposed Executive order entitled "Appointment of a Member of a Military Tribunal Established for the Trial and Punishment of Major War Criminals in Germany."

Accompanying the order are two letters of the Secretary of War and of the Director of the Bureau of the Budget, respectively, which contain a discussion of the order and a statement as to the qualifications of Justice Wenerstrom, whom the order designates as a member of a military tribunal established for the trial and punishment of major war criminals of the European Axis.

I approve the proposed order as to form and legality.

Respectfully yours,

Attorney General

Signed: 5/10/47
My dear Mr. Attorney General:

Enclosed is a proposed Executive Order, presented by the Secretary of War, entitled "Appointment of a Member of a Military Tribunal Established for the Trial and Punishment of Major War Criminals in Germany."

The proposed order designates Charles F. Van Zandt, Chief Justice of the Supreme Court of the State of Iowa, as a member of one of the several military tribunals established by the Military Governor for the United States Zone of Occupation within Germany pursuant to the quadripartite agreement of the Control Council for Germany, entered December 27, 1945, in the Control Council law No. 10, and pursuant to Articles 19 and 21 of the Charter of the International Military Tribunal, which tribunal was established by the Governments of the United States of America, the Provisional Government of the French Republic, the Government of the United Kingdom of Great Britain and Northern Ireland, and the Government of the Union of Soviet Socialist Republics for the trial and punishment of major war criminals of the European Axis.

Except that the proposed order appoints only one member of the military tribunal, it is similar to Executive Orders 9019 and 9027 of January 10, and February 21, 1947, which designated the three members and the alternate member of two of the several Special Courts established for the same purpose.

The Secretary of War points out that while previous orders of this character had appointed all the members constituting a single tribunal, it was necessary to make an exception in this instance because it was desired that Judge Van Zandt remain in Germany not later than June 1, 1947, and since he was not able to leave his position on the Iowa Supreme Court prior to his designation under the proposed order, and it was not expected that the acceptance of the
other two members of the tribunal would be received in time to be included in one order.

The proposed Executive Order has the approval of the Director of the Bureau of the Budget.

The War Department has informally requested that action upon the proposed order be expedited as much as possible.

Very truly yours,

(Handwritten) P.J. {}
Assistant Director
Legislative Reference

The Honorable
The Attorney General

Sacramento
WAR DEPARTMENT
WASHINGTON

MAY 12, 1947

Honorable James E. Webb
Director, Bureau of the Budget
Washington, D.C.

Dear Mr. Webb:

There is enclosed a draft of the proposed Executive Order entitled "Appointment of a Member of a Military Tribunal Established for the Trial and Punishment of Major War Criminals in Germany" which it is requested be submitted to the President for his approval and signature. A similar request was recently submitted for the appointment of members and an alternate member for the staffing of the Fourth Local Court.

The War Department (War Crimes Branch, Civil Affairs Division) is charged with the responsibility of procuring qualified judges for the staffing of the Military Tribunals in Germany for the trial of major war criminals subsequent to the proceedings of the International Military Tribunal at Nuremberg. Previously, one Executive Order has been issued for all members of each such Military Tribunal. At this time, however, recommendation is made for the designation of one of the three members for the fifth Military Tribunal. This variation from the usual procedure is requested for the following reason:

The War Department desires to recommend Charles F. Wannerstrum, Chief Justice of the Supreme Court of Iowa, as one of the members of the fifth Military Tribunal at Nuremberg, Germany. However, the Iowa statutory and constitutional provisions are such that if Justice Wannerstrum accepts the above mentioned appointment prior to the issuance of the Executive Order designating him as a member of the Tribunal, his position on the Iowa Supreme Court might be jeopardized. It is necessary that Justice Wannerstrum be in Nuremberg, Germany not later than 1 June 1947.

The acceptance of each of the other two members will probably be received at such later date as to make impossible the issuance of one Executive Order designating the full membership of this Tribunal sufficiently soon to meet the Iowa constitutional and statutory requirements relating to Justice Wannerstrum's acceptance. For this reason Justice Wannerstrum's name is submitted singly.

In order to partially staff the fifth Military Tribunal, it is
recommended at this time that the following member be appointed by the
President: As Judge: Charles F. Wemerstrum, Chief Justice of the Supreme
Court of the State of Iowa.

The functions of these tribunals are essentially military and as such
are a responsibility of the Secretary of War. For this reason all of the
personnel that may be assigned to such judicial duties will, during the
tenure of this assignment outside of the continental limits of the United
States, be subject to War Department orders, through the Commander in Chief,
European Command.

It is recommended that the civilian appointees mentioned above be entitled,
for all purposes other than that of own, and without the responsibility of
the comparable military grade, to the considerations and amenities of a
General Officer of the Army of the United States. This arrangement has been
submitted to the theater Commander and has been approved, and is in accordance
with the Adjutant General’s letter, A-562-BWH (26 October 1946) dated 21
November 1946, subject: Civilian personnel in overseas theaters. (Enclosure 1)

For the purpose of effecting the appointment mentioned above, there is
inclosed a draft Executive Order (Enclosure 2). It is requested that it be
submitted to the President for his approval and signature. Also inclosed is
a letter from the Secretary of War to the President outlining the qualifications
of the nominee (Enclosure 3). A copy of the Charter of the International
Military Tribunal, (Enclosure 4) and the Control Council Law No. 10, (Enclosure
5) referred to in the draft Executive Order, are inclosed for your information.

As stated in my letter of 28 November 1946, recommending the appointment
of the members of the first Small Court, it is estimated that no more than
24 civilian judges will be required to staff these Small Courts. These 24
Judges were requisitioned by G-4 USH Cables C-5605, 19 October 1946, (K-36
27951, 19 October 1946) which requested that they be employed by the War De-
partment under OGH requisition number 21, at the Civil Service grade of P-4, plus $75.00 per diem.

Sincerely yours,

[Signature]

Secretary of War

5 Enclosures:
1. Attr (29 Nov 46)
2. Draft of Executive Order
3. Lt Drn Sea/Mar to Pres
4. Copy of Charter of Int
5. Control Council Law No. 10

2
28 May 1947

The President
The White House

Dear Mr. President:

I have the honor to furnish you the following information in connection with the proposed appointment of Justice Charles B. Wencer of the United States District Court for the District of Columbia as a member of the Fifth of the several Military Tribunals in Germany for the trial of major war criminals.

Justice Wencer was born 11 October 1889 in Cambridge, Illinois. He received an A.B. Degree from Drake University, 1912 and an L.L.B. Degree, College of Law, 1914. He was admitted to the Iowa Bar in 1914; practiced law from 1914–1920; County Attorney, Louisa County, Iowa, 1920–23; Circuit Judge, Iowa, 31st Judicial District, 1930–40; Justice, Supreme Court of Iowa 1941–47; and Chief Justice, Supreme Court of Iowa, January 1947 to present date. He is a member of the American Bar Association, Iowa State Bar Association, and American Law Institute. Justice Wencer is highly regarded as to his legal and judicial ability.

Respectfully yours,

[Signature]

Secretary of War
E X E C U T I V E O R D E R

APPOINTMENT OF A MEMBER OF A MILITARY

TRIBUNAL AUTHORIZED FOR THE TRIAL AND

PUNISHMENT OF NAZIS AND OTHERS IN

GERMANY

By virtue of the authority vested in me by the Constitution
and the statutes, and as President of the United States and Commander
in Chief of the Army and Navy of the United States, it is ordered as
follows:

1. I hereby designate Charles F. Hyneman, Chief Justice
of the Supreme Court of the State of Iowa, as a member of one of the
several military tribunals established by the Military Governor of
the United States Zone of Occupation within Germany pursuant to the
Supreme Directive of the Central Council for Germany, dated
December 30, 1945, as Central Council Law No. 2, and pursuant to
Article 10 and 11 of the Charter of the International Military
Tribunal, which tribunal was established by the government of the
United States of America, the Provisional Government of the French
Republic, the Provisional Government of the United Kingdom of Great
Britain and Northern Ireland, and the government of the State of Free
Socialist Republic, for the trial and punishment of war criminals of the
European Axis, such member may, at the direction of the Military
Governor of the United States Zone of Occupation, serve on one of
the several military tribunals above mentioned, which tribunals are a
component part of the military administrative forces of the United
States, and upon which the member designated herein shall perform
active service during the period of the designation.

2. The member herein designated shall receive such compensa-
tion and allowances for expenses as may be determined by the Secretary
of War and as may be payable from appropriations or funds available to
the War Department for such purposes.

3. The Secretary of State, the Secretary of War, the
Attorney General, and the Secretary of the Navy are authorized to pro-
vide appropriate assistance to the member herein designated in the
performance of the duties and may assign to detail such personal or
such personal or
ple post
the Secretary of the Navy on a detail is not covered by the law of the
State to which the person is assigned or details from the Navy Depart-
ment shall receive such compensation and allowances for expenses to
which they may be entitled by reason of their military grade and service
and as may be payable from appropriations or funds available to the
Department for such purposes.

EISENHOWER

THE WHITE HOUSE,
May 13, 1947.