June 26, 1947

My dear Mr. Secretary:

The President on June twenty-fourth signed an Executive Order entitled "Appointment of Members 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,

H. C. Latta
Executive Clerk

The envelope
The Secretary of War,
Washington, D. C.

Enclosure.
June 24, 1967

The White House
Washington, D.C.

Attention: Mr. R. C. Latte

My dear Mr. Latte:

Transmitted herewith is a proposed Executive Order entitled "Appointment of Members of a Military Tribunal Established for the Trial and Punishment of Major War Criminals in Germany."

The proposed Executive Order has been reviewed in this Division and approved by the Director for conformity with the Provisions of Executive Order 7990.

Very truly yours,

H.C. Eberhart, Jr.
Chief Editor
The President,  
The White House.  
My dear Mr. President:

I am herewith transmitting a proposed Executive order entitled “Appointment of Members 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 addressed to you and to the Director of the Bureau of the Budget, respectively, which contain the pertinent facts relating to the order and a statement with respect to the qualifications of the persons designated as members of the military tribunal.

The proposed order, which has been slightly revised in this Department with respect to form only, has my approval as to form and legality.

Respectfully yours,

[Signature]

Attorney General
My dear Mr. Attorney General:

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

The proposed order designates Edward Franklin Carter, Associate Justice of the Supreme Court of the State of Nebraska; and Curtis Grover Stowe, former Judge of the Supreme Court of the State of Indiana, as members 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 Central Council for Germany, meets December 20, 1945 as Control Council Law No. 10, and pursuant to Articles 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 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.

The Secretary of War points out that the designation of the two members named in the proposed order will complete the staffing of the fifth Military Tribunal, inasmuch as the third member, Charles F. Veneer, Chief Justice of the Supreme Court of Iowa, was designated by Executive Order 9630 of May 15, 1947.

The proposed order has the approval of the Director of the Bureau of the Budget.

Very truly yours,

The Honorable
The Attorney General

The Honorable
Assistant Director
Legislative Reference

Emblems
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 the Members 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 request was recently submitted for the appointment of one of the members of the fifth Military Tribunal, and it is now desired to accomplish a similar appointment of two other members in order to complete the staffing of this Tribunal.

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. However, because of the Iowa statutory and constitutional provisions, one member of the fifth Military Tribunal, Charles P. Hanneman, Chief Justice of the Supreme Court of the State of Iowa, was designated singly by Executive Order No. 9628 as a member of this Tribunal.

In order to complete the staffing of the fifth Military Tribunal, it is recommended that the following members be appointed by the President: As judges: Howard Francis Ortego, Associate Justice of the Supreme Court of the State of Nebraska and Curtis Grover Stare, Former Judge of the Supreme Court of the State of Indiana. The Theater Commander, as Military Governor of the United States Zone in Germany, will designate the presiding judge of this Court.

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.
Honorable James M. Webb

It is recommended that the civilian appointees mentioned above be entitled, for all purposes other than that of command, and without the responsibility 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 conformity with the Adjunct General's Letter, AGM-30 (26 October 1946) dated 31 December 1946, subject: Civilian personnel in overseas theaters. (Enclosure 1).

For the purpose of effecting the appointments mentioned above, there is included a draft Executive Order (Enclosure 3). It is requested that it be submitted to the President for his approval and signature. Also included is a letter from the Secretary of War to the President outlining the qualifications of each nominee (Enclosure 3).

As stated in my letter of 28 November 1946, recommending the appointment of the members of the first Military Tribunal, it is estimated that no more than 24 civilian judges will be required to staff these Military Tribunals. These 24 judges were requisitioned by GSUS, DCS, ODC, 19 October 1946, (ODC-19751, 13 October 1946) which requested that they be employed by the War Department under GSUS requisition number 331, each at the Civil Service grade of Fed, plus $7.00 per diem.

Sincerely yours,

[Signature]

Secretary of War

3 Encls:
1. AG Ltr (31 Nov 46)
2. Drpt of Mem Order
3. Ltr fr Sec/War to Pres.
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 Samuel Francis Carter, Associate Justice of the Supreme Court of the State of Nebraska and Curtis Bever Stake, former Judge of the Supreme Court of the State of Indiana, as members of the fifth of the several Military Tribunals in Germany for the trial of major war criminals.

Mr. Carter was born on 11 March 1897 at Middlebranch, Nebraska. He received his LL.B. at the University of Nebraska in 1919. He was admitted to the Nebraska Bar in 1920 and practiced in Lincoln until 1924. He was Judge of the 17th Judicial District, Nebraska, for the period of 1924-1927; Associate Justice, Supreme Court of the State of Nebraska since 1925. He is a member of American Bar Association, American Judicature Society, American and Nebraska Bar Associations, and The Order of the Coif. Mr. Carter is highly regarded as to his legal and judicial ability.

Mr. Stake was born 16 July 1887 in Knox County, Indiana. He was a student at Vincennes University, 1903-05 and received his LL.B. at Indiana University 1910. He was admitted to Indiana Bar 1910 and engaged in practice in Vincennes. He was Deputy Prosecuting Attorney 1911-12; City Attorney 1915-16; G. B. Commissioner 1917-18; County Attorney 1920-21; State Senator 1921. He was appointed Judge of the Supreme Court of the State of Indiana in 1930, was elected for a six year term, November 1934, and retired from that position January 1937. He has been member for the National Railroad Adjustment Board from 1954 to current date, and is on the Board of Trustees, Vincennes University. He is a member of American and Indiana Bar Associations, and the American Judicature Society. Mr. Stake is highly regarded as to his legal and judicial ability.

Sincerely yours,

Secretary of War
WAR DEPARTMENT  
The Adjutant General's Office  
Washington 25, D. C.  

ADAM-250 (26 Oct 45)  

22 November 1946  

SUBJECT: Civilian personnel in overseas theaters  


WASHA  

COMMANDER-IN-CHIEF, United States Army Forces in the Pacific  

Commanding Generals:  

United States Forces, European Theater  

United States Forces, Mediterranean Theater of Operations  

Caribbean Defense Command  

American Department  

War Department civilian officials and employees will continue to be required for assignment overseas in support or replace military personnel. This letter is intended as a statement of general policy affecting the policies and directions of such civil service.

1. Requirements:  
   a. Determination of the number and types of United States civilian officials and employees to be assigned for assignment to a theater is responsibility of the theater commander. Factors to be considered in this connection are:
      (1) Need of the theater.
      (2) Feasibility and desirability of substituting civilians for military personnel in specific assignments, in line with policy stated in section 2, 10 Circular 425, 1945, as amended by section VII, 45 Circular 877, 1945.
      (3) Length of contract of civilian employees as compared to normal tour of duty of military personnel.
      (4) Availability of military personnel to meet requirements.
      (5) Budgetary limitations.
      (6) Availability of local employment.
      (7) Ability of the theater to provide accommodations, services, supplies, etc., on an equitable basis.
   b. It is requested that no civilian employees be assigned for assignment to a theater unless it is determined that such individual will be of essential usefulness to the theater organization.

2. Administration:  
   a. The fundamental concept that must be understood by the military authority charged with administering a command made up of military and civilian personnel is that the command as a whole constitutes its team, and that the relative scales of accommodations, services, supplies, amenities, etc., to be accorded individuals (military or civilian) from the available resources should be based on the duties and responsibilities.
responsibilities of the position occupied. Relative pay scales do not form a practical basis for the establishment of standards of amenities to be accorded military and civilian personnel as groups or as individuals within these groups.

b. Administration of any set of established standards in this connection will, of necessity, vary in the different overseas theaters, territorial possessions, etc., in which our forces are stationed, in occupied enemy countries. For example, and in other areas where Americans cannot enjoy the facilities of the civilian community without restriction, or where adequate facilities do not exist, it became the duty of the commander to organize a system of United States personnel (military and civilian) and the available facilities under his jurisdiction into a social community, giving full consideration to the fact that unless certain accommodations, services, supplies, and amenities are furnished by the Army and allocated on an equitable basis, many of the individuals concerned will not be able to enjoy the same relative social and economic positions in foreign stations as they would in their home communities in the United States. On the other hand, where adequate facilities exist, and where free access to these can be accorded, the degree of organization and administration to be provided by the Army authority in this connection can be accentuated less.

c. Because of the wide variation of conditions existing in the different theaters, it is impracticable for the War Department to establish comparable scales of accommodations, services, supplies, and amenities for uniform application in all overseas areas. For purposes of information only, there is included herewith, a series of comparable categories in this connection which are being used successfully in one overseas theater. It is important that all concerned fully understand that the establishment of comparable categories, such as those given in the enclosure, does not imply that any civilian employee holds the grade (actual or assimilated) or has the responsibility of the comparable military grade. Comparable categories for civilians, where used, are intended to provide a reasonable scale of relative amenities for purposes of administration only.

d. Extension. a. The usefulness of civilian employees will be enhanced if all personnel (military and civilian) are properly oriented as to their relative positions in the combined organization. Past failures in this regard have led to unfortunate misunderstandings.

b. It is of vital importance that directives issued by the theater, in connection with paragraph a above, be made known not only to the individuals directly affected, but also to the War Department responsible for furnishing copies of all such directives in order that civilian personnel recruiting agencies in the zone of interior may be better able to adjust personnel engaged for service in the different theaters.

c. Future theater regulations for civilian employees will be based on the considerations stated above. It is desired that the matters
of civilian-military personnel relationships and orientation be given
the continuing attention their importance demands.

BY ORDER OF THE SECRETARY OF WAR:

[Signature]

EDWARD F. MOUTCLE
Major General
The Adjutant General

Copies furnished:
Directors, War Department General Staff Divisions
Chiefs, War Department Special Staff Divisions
Commanding Generals:
Army Air Forces
Army Ground Forces
Chiefs of Administrative and Technical Services
Comparable categories between United States civilian employees and military personnel, for the purposes of determining the relative scale of accommodations, service, supplies, and amenities to be accorded.

The following comparable categories are being used successfully in one overseas theater.

1. OFP 15 through 18 and OFP 8 through 9 are comparable to field grade officers.

2. OFP 11 through 14 and OFP 6 through 7 are comparable to company grade officers.

3. OFP 6 through 8; 2-1; and SF 6 through 9 are comparable to non-commissioned officers (first three grades).

4. Civilians personnel of the Army Exchange Service and personnel of other organizations paid from appropriated funds are placed in one of the categories established above for Civil Service employees on the basis of their duties and responsibilities.

5. Accommodations, services, supplies, and amenities to be accorded United States civilians, holding ratings below OFP 4 and SF 5, resident in the United States and assigned overseas, or such personnel procured locally, or Allied neutral or stateless personnel holding these lower ratings are furnished to the extent deemed advisable by the theater commander.

6. All United States personnel paid from appropriated funds who occupy positions not graded under the Classification Act of 1923, as amended, or who are assigned to positions in the GPO Service under the Act, are provided accommodations, services, supplies, and amenities equal to those provided OFP 6, SF, and 7 grades on the basis of their duties and responsibilities.

7. Accommodations, services, supplies, and amenities equivalent to those enjoyed by general officers are accorded to individual civilian employees in special circumstances as directed by the Secretary of War, the Chief of Staff, or the theater commander.

Enclosure to 12 letter (WAM 26-220) (48 Oct 46-8222) 31 November 1946
JUNE 29, 1947

EXECUTIVE ORDER

APPOINTMENT OF MEMBERS OF A MILITARY MUNICIPAL COURT ESTABLISHED FOR THE TRIAL AND PUNISHMENT OF MAJOR WAR CRIMINALS 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 Robert H. Jackson, Associate Justice of the Supreme Court of the State of New York, and Curtis G. Stone, former Judge of the Supreme Court of the State of Illinois, as members of one of the military tribunals established by the Military Governor for the United States Zone of Occupation in Germany pursuant to the quadripartite agreement of the Central Council for Germany, dated November 20, 1945, as Central Council law No. 10, and pursuant to Articles 10 and 11 of the Charter of the International Military Tribunal, with Tribunal established by the Government 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 Soviet Socialist Republics, for the trial and punishment of major war criminals of the European Axis. Such members may, at the direction of the Military Governor of the United States Zone of Occupation, serve on any of the several military tribunals above mentioned, which tribunals are a component part of the military occupational forces of the United States, and upon which the members designated herein shall perform active service during the period of their designation.

2. The members herein designated shall receive such compensation 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 provide appropriate assistance to the members herein designated in the discharge of their duties and may assign or detail such personnel under their respective jurisdictions, including members of the armed forces, as may be necessary for the purpose. Personnel so assigned or detailed shall receive such compensation and allowances for expenses as may be determined by the appropriate departmental head, which may be payable from appropriations or funds available to the War Department for such purposes, except that personnel assigned or detailed from the Navy Department 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 Navy Department for such purposes.

HARRY S. TRUMAN

THE WHITE HOUSE,
June 29, 1947.