

325-B

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 en-  
closed.

x161

x325  
x198

Very sincerely yours,

M. C. LATEA  
Executive Clerk

The Honorable <sup>x25</sup>  
The Secretary of War,  
Washington, D. C.

Enclosure.



June 24, 1947

The White House  
Washington, D. C.

Attention: Mr. M. C. Latta

My dear Mr. Latta:

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 7298.

Very truly yours,

*D. C. Eberhart, Jr.*

D. C. Eberhart, Jr.  
Chief Editor

*Lippard 6/24/47*



Office of the Attorney General  
Washington, D.C.

Through the Division of the Federal Register

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,

  
Attorney General

JUN 17 1947

My dear Mr. Attorney General:

Herewith 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 Francis Carter, Associate Justice of the Supreme Court of the State of Nebraska and Curtis Grover Shaks, former Judge of the Supreme Court of the State of Indiana, as the 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 Control Council for Germany, enacted 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. Wennerstrum, Chief Justice of the Supreme Court of Iowa, was designated by Executive Order 9852 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

Wm. J. Bailey

Assistant Director  
Legislative Reference

Enclosures

16 JUN 1947

Honorable James E. Webb  
Director, Bureau of the Budget  
Washington 25, D. C.

Dear Mr. Webb:

There is inclosed 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 F. Wennerstrum, Chief Justice of the Supreme Court of the State of Iowa, was designated singly by Executive Order No. 9852 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: Edward Francis Carter, Associate Justice of the Supreme Court of the State of Nebraska and Curtis Grover Shake, 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 the 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.



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Honorable James E. 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 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 conformity with the Adjutant General's Letter, AGAM-PM 230 (26 October 1946) dated 21 November 1946, subject: Civilian personnel in oversea theaters. (Inclosure 1).

For the purpose of effecting the appointments mentioned above, there is inclosed a draft Executive Order (Inclosure 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 each nominee (Inclosure 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 OMCUS cable CC 5605, 19 October 1946, (MC-IN 57381, 19 October 1946) which requested that they be employed by the War Department under OMCUS requisition number 231, each at the Civil Service grade of P-8, plus \$7.00 per diem.

Sincerely yours,

  
Secretary of War

3 Incls:

1. AG Ltr (21 Nov 46)
2. Draft of Exec Order
3. Ltr fr Sec/War to Pres.

WAR DEPARTMENT  
WASHINGTON

16 JUN 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 Edward Francis Carter, Associate Justice of the Supreme Court of the State of Nebraska and Curtis Grover Shake, 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 Nebraska Bar in 1919 and practiced in Bayard until 1927. He was Judge of the 17th Judicial District, Nebraska, for the period of 1927-35; Associate Justice, Supreme Court of the State of Nebraska since 1935. He has been Referee for the National Railroad Adjustment Board from 1939 to current date. He is a member of American Inter-professional Institute, 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. Shake was born 14 July 1887 in Knox County, Indiana. He was a student at Vincennes University, 1903-06 and received his LL.B. at Indiana University 1910. He was admitted to Indiana Bar 1909 and engaged in practice in Vincennes. He was Deputy Prosecuting Attorney 1911-18; City Attorney 1912-15; U. S. Commissioner 1917-21; County Attorney 1923-26; State Senator 1927. He was appointed Judge of the Supreme Court of the State of Indiana in 1938, was elected for a six year term, November 1938, and retired from that position January 1945. He has been Referee for the National Railroad Adjustment Board from 1944 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. Shake is highly regarded as to his legal and judicial ability.



Respectfully yours,

*RL P P*

Secretary of War

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

ADAM-PM 230 (26 Oct 46)  
WDGPA

21 November 1946

SUBJECT: Civilian personnel in oversea theaters

TO: 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  
Alaskan Department

War Department civilian officials and employees will continue to be required for assignment overseas to supplement or replace military personnel. This letter is intended as a statement of general policy affecting the welfare and usefulness of such civilians.

1. Requirements. a. Determination of the numbers and types of United States civilian officials and employees to be requisitioned for assignment to a theater is a responsibility of the theater commander. Factors to be considered in this connection are:

- (1) Theater mission.
- (2) Feasibility and desirability of substituting civilians for military personnel in specific assignments, in line with policy stated in section I, WD Circular 248, 1945, as amended by section VII, WD Circular 277, 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 employables.
- (7) Ability of the theater to provide accommodations, services, supplies, etc., on an equitable basis.

b. It is axiomatic that no civilian employee should be requested 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 his team, and that the relative scale of accommodations, services, supplies, amenities, etc., to be accorded individuals (military or civilian) from the available resources should be based on the duties and

Incl 1



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 becomes the duty of the commander to organize the family 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 afforded by the Army authority in this connection can be somewhat 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 inclosed 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 inclosure, 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.

3. Orientation. 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 2 above, be made known not only to the individuals in the theater, who are directly affected, but also that the War Department be furnished copies of all such directives in order that civilian personnel recruiting agencies in the zone of interior may be better able to orient personnel procured for service in the different theaters.

4. Future theater requisitions 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:

*Edward F. Witsell*

EDWARD F. WITSELL  
Major General  
The Adjutant General

1 Incl  
Comparable ranks between United  
States Civil Service personnel  
and military personnel .

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. CAF 15 through 12 and P 8 through 5 are comparable to field grade officer.

2. CAF 11 through 7 and P 4 through 2 are comparable to company grade officer.

3. CAF 6 through 4; P-1; and SP 8 through 5 are comparable to non-commissioned officer (first three grades).

4. Civilian personnel of the Army Exchange Service and personnel of other organizations paid from nonappropriated 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 CAF 4 and SP 5, recruited 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 CPC Service under the Act, are provided accommodations, services, supplies, and amenities equal to those provided CAF, SP, and P 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.

JUNE 25, 1947

## EXECUTIVE ORDER

APPOINTMENT OF MEMBERS OF A MILITARY  
TRIBUNAL 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 Edward Francis Carter, Associate Justice of the Supreme Court of the State of Nebraska, and Curtis Grover Shaker, 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 Control Council for Germany, enacted 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. 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 performance of their duties and may assign or detail such personnel under their respective jurisdictions, including members of the armed forces, as may be requested for the purpose. Personnel so assigned or detailed 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, 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 24, 1947.