1-20-1948

Einsatzgruppen Case: Presentation of Evidence (Von Stein for Sandberger)

International Military Tribunal

A No.

THE PRESIDENT: Do you have any further questions, Dr. Hoffmann?

DR. HOFFMANN: I have no further questions, Your Honor.

THE PRESIDENT: The witness will be excused.

Do we have any word from the front as to whether Dr. Link is free or not?

DR. ULMER: Dr. Ulmer for the defendant Six.

Your Honor, I can now say once and for all that my witness has weathered the storm and that she will be able to come to the witness stand on Thursday, as I said this morning. I only wanted to say so now because this morning it was not clear. She has finally arrived in Hamburg, and I think she will arrive here during the day tomorrow, and I want herewith to announce her.

THE PRESIDENT: Yes.

DR. ULMER: And I want the gentlemen of the Prosecution to take note of this.

THE PRESIDENT: Certainly. Immediately upon arrival you will hold her in readiness for summoning to the witness stand.

DR. ULMER: Yes, Your Honor.

THE PRESIDENT: Very well.

DR. STEIN: Dr. Stein for Sandberger.

Your Honor, I made up my mind to offer Book 1 which is translated. Book 2 which was to have been presented with Book No. 1, is translated but it has not been mimeographed yet. For this reason I have switched over my presentation and I shall now submit Book No. 1.

THE PRESIDENT: Very well. Proceed. You may begin, Dr. Stein.

DR. STEIN: I submit and I offer as Exhibit Sandberger No. 1, Document Sandberger No. 15 which is contained in Document Book Sandberger 1. It is on page 40. It is an affidavit of the architect, Lambert von Malsen-Ponickau. This gentleman was Sandberger's deputy in 1941 in the direction of the Immigration Central Office, and in this affidavit he states that Sandberger, against his wish, received

the order to take up an assignment in the East with the Security Police and the SD.

THE PRESIDENT: I see that Dr. Link, battle-scarred and quite a veteran, has returned.

DR. STEIN: He confirms the following facts which Sandberger testified to in his direct examination, first, that Sandberger in 1940 and in 1941 had the urgent wish to be released from his activity in the Reich Security Main Office and to be allowed to go to join a Wehrmacht unit as a soldier; secondly, that since 1939 Sandberger suffered from a rheumatic disease and that in February or March, 1941, he had to take health baths in order to cure this disease; thirdly, that Sandberger reported to the Chief of Office I, Streckenbach, and asked him to be released in order to join the Wehrmacht, and when this was refused, he repeated his application; fourth, that Sandberger expressed to the affiant his disappointment that this application was not approved; fifth, that Sandberger before he was assigned to the East had no knowledge concerning the tasks of an Einsatzgruppe, especially considering that he had never had anything to do with Office IV of the RSHA nor had he ever been active in any police service whatsoever.

The following affidavits which I am about to submit concern the activity of Sandberger in Estonia. In these affidavits it is said that Sandberger during the second half of the month of September and in the beginning of October, 1941, was not in Estonia but in the sector in the vicinity of Leningrad. I may point out in this connection, and I may remind the Tribunal first, that the Chief of the Estonian self-government, Dr. Hjalmar Mae, has given testimony concerning this question when he was on the witness stand to the effect that Sandberger was not present in Estonia at this time and that he could not be reached from Reval; secondly, that the defendant Sandberger himself stated when he was on the witness stand that the execution of Jewish men in Estonia, which is mentioned in Document 1180 and in the Prosecution Document

NO-3155, Report of Events of No. 111, happened during the last days of September while he was absent from Estonia without his knowledge, by order of the Einsatzgruppe Chief Stahlecker to a deputy of Sandberger's by the name of Carstens, and owing to the passing on of Sandberger's orders to this effect by a report from Carstens to the Estonian Home Guard.

I submit and I offer as Exhibit Number 2, Sandberger Document Number 13, and it is in Document Book I, page 35. It is affidavit by Alma Klenke, who states that at the end of October 1941 she received a letter from Sandberger from which it became evident that Sandberger was at the Leningrad front on the 23rd of September 1941 as well as on the 3rd of October 1941.

The next document I offer is Sandberger Exhibit Number 3, Sandberger Document Number 12, Document Book I, page 33, affidavit of Miss Magda Kirschstein who likewise confirms that Sandberger at the end of September 1941 was at the Leningrad front, that in March 1942 Sandberger was in Berlin and after that in a field hospital in Pernau.

As Sandberger Exhibit Number 4, I offer Sandberger Document Number 7, which is also in Document Book Number I on page 17, affidavit of farmer Otto von Haldenwang. Haldenwang was chief of the Department I of the German general commissariat for Estonia. He was, therefore, responsible to the chief of the German civilian administration in Estonia. He was together with Sandberger from the beginning of September 1941 until the autumn 1942 in Reval. He also confirms that Sandberger, during the time in question here, that is, autumn 1941, was not present in Reval and could not be reached by this affiant during the time. Furthermore, he confirms the absence of Sandberger from Reval during spring 1942 owing to illness, as well as the fact that the synagogue in Reval was not destroyed. Then he confirms that Sandberger's interest was taken up by political matters and that Sandberger, therefore, did not deal very much with police matters. Herr Haldenwang furthermore speaks about the different fields of activities with which Sandberger primarily concerned himself during his period in Estonia. Sandberger, he says, had from the very beginning advised the Estonian civil administration with word and deed, that he was sympathetic towards the Estonian people and had always supported and been kind to the Estonians at any time.

Furthermore, Sandberger had advocated a greater independence of the Estonian people and had supported this request with the German civil administration. He also saw to it that the Estonians would be well-treated and that in cultural and economic questions they should be supported as far as possible. A number of individual examples are given by the affiant confirming this. He characterizes the defendant Sandberger as a quiet, very correct person, who was able to strike a happy medium between particularly strong contrasts.

The next document is Sandberger Document Number 3, Document Book I, page 6, which I offer as Sandberger Exhibit Number 5, affidavit by Georg Buchner, the kriminalsekretaer. In 1941 Buchner was police expert in the special commando IA, the chief of which was Sandberger. Buchner likewise confirms from his own knowledge that Sandberger during the second half of September and at the beginning of October 1941 was stationed at the Leningrad front. During the time in question, the affiant was assigned to this special. The following paragraphs of the affidavit of Buchner confirm those statements which Sandberger testified to when he was in the witness stand, when he was asked by the prosecutor concerning the competence of the subcommando Krasnoje-Selo. From the beginning of October this subcommando Krasnoje-Selo was only subordinated to Sandberger as far as supply and administration were concerned, therefore, the spheres of activity of departments I and II, but the subcommando Krasnoje-Selo in all operational matters, that is, the work of the departments III, IV, and V, from October 1941 on, was exclusively under the Kommando Kranogwardeisk of the Einsatzgruppe A. That is, therefore, to the staff of the Einsatzgruppe in Kranogwardeisk. Buchner describes in detail these channels of command. This confirms everything that Sandberger said concerning this question when he was on the witness stand on page 2,399 of the English transcript.

Next I offer, as Sandberger Exhibit Number 6, Sandberger Document Number 5, page 11, affidavit of the Kriminalkommissar Johannes

Feder. Feder was a member of the Special Commando 1A from the beginning of the Russian campaign until the 25th of September 1941. From the middle of August on, he was the chief of the branch office in Narva of SK 1-A. Narva is situated on the road Reval-Leningrad about half way. Feder confirms that Sandberger, approximately during the period from the 10th of September 1941, went to the front with a subcommando via Narva in the direction of Leningrad, that he did not return to Estonia as long as Feder was in Narva, and that in the meantime no contact existed between Sandberger and Feder. Apart from this fact, Feder confirms a number of other circumstances which agree with the statements that Sandberger made when he was on the witness stand. First, he, Feder, had not been informed as a subcommando chief about the fact that it was part of his tasks to shoot Jews, Gypsies, and Communist functionaries. On the contrary, Sandberger had expressly said that no collective measures were to be carried out. Secondly, he, Feder, during the time of his service in Sonderkommando 1A, from July 1941 up to and inclusive of 25 September 1941, had never heard either from Sanderberger or from any other place about the existence of a Fuehrer order concerning elimination of all Jews, Gypsies, and Communist functionaries.

Third, he Feder, as Sub-Kommando Chief, had received the following directions from Sandberger: All measures were to be taken as were necessary to protect the rear of the fighting units. Directives concerning confinements to camps or prisons and death sentences were only to be passed after an individual guilt had been established, and only if the person charged had had the opportunity to defend himself and orally. In this executions were to be carried only in exceptional cases. The heavy guilt according to these principles was only active guilt of measures taken against the German Wehrmacht. Those were the offenses which were to be punished with death or, of course, crimes against life and property of indigenous citizens during the time of the Russian occupation which had preceded. Also, it had to be proven that the person concerned would endanger seriously the security of the area in question.

Fourth, concerning the marching through of the Kommando I A through Lithuania and Latvia, Sandberger had informed his Sub-Kommando Leader that the Kommando IA had no authorities as far as Lithuania and Latvia were concerned, but only for Estonia, and that for that reason, while the Kommando I A marched through Lithuania and Latvia, security measures on the part of the Security Police should only be taken if it was considered absolutely necessary to secure the Army immediately.

Fifth, Feder confirms that during his period as Sub-Kommando Chief in Narva, he had never received from anybody or from Sandberger an order concerning anti-Jewish actions and that he himself had never taken any measures against Jews. These statements confirm the testimony of the witness Sandberger when he was on the witness stand. It is on Page 2212 of the English record: "The territory in the Northeast of Estonia between Kapsk and Narva - - -"

THE PRESIDENT: Dr. von Stein, at the rate at which you are proceeding, which is not a very rapid one, I am afraid that we won't reach Dr. Link before adjournment time, and I am very sorry about that because we -- sort

of had Dr. Link going back and forth, and I am just wondering now, do you think you can complete the presentation of this book before 4:30?

DR. VON STEIN: (Inaudible) Well, I suppose so, Your Honor.

THE PRESIDENT: We didn't catch that.

DR. VON STEIN: I think that there are only another 20 minutes, as far as that is concerned.

THE PRESIDENT: Well, there are 25, to begin with, and then you are moving very slowly and giving a lot of detail which is unnecessary. The only purpose of presenting a document in this way is to generally give the picture of what it presents, but to give it in detail is unnecessary because the affidavit must be read in its entirety, and I am afraid that you don't get as much out of it as if you just told in a few brief, telling words what the affidavit says.

DR. VON STEIN: Your Honor, only a few individual documents needed an explicit explanation. All the other documents are very much shorter and only -- therefore, they only give the content as you, Your Honor, wish it to be.

THE PRESIDENT: I see, very well. Yes. Well, Dr. Link, it seems quite clear that we couldn't reach you before 4:30 anyway. Now, the only thing we want to decide is whether you would want to go on immediately at 9:30 tomorrow morning or whether we should go on with rebuttal. Now -- just a moment now.

Dr. Link, can you give us any estimate of the length of time you would require to present your documents?

DR. LINK: It is difficult to give an estimate, your Honor, but I am almost certain that in about 40 minutes I could finish.

THE PRESIDENT: Yes. Can you be here tomorrow morning at 9:30?

DR. LINK: If it is absolutely necessary, your Honor, I shall excuse myself and I shall withdraw in the correct manner from the other trial, but, of course, it would be most welcome to me if I should be permitted to arrive at only 10 o'clock, because at 9:30 the decision is expected which the Tribunal was discussing during these last two days.

THE PRESIDENT: Yes. Yes, well, I can see the importance of that, naturally; so perhaps what we will do then is, just as soon as Dr. von Stein finishes, to go on with rebuttal, because we ought to get that in, and then when you are free, completely free, then you report to the Tribunal and we will see when you will present your documents. But you need not feel under any constraint to report here at any particular time tomorrow morning, and I am very sorry that we had you called and then you couldn't go on anyway.

DR. LINK: Thank you, Your Honor.

THE PRESIDENT: You are welcome. Proceed, Dr. von Stein, please.

DR. VON STEIN: I now continue with the affidavit — of Feder's.

The territory in the Northeast of Estonia, between Kapsk and Narva, which is spoken about on this page of the transcript by Sandberger is the same sector which was part of the territory of Feder's Kommando.

Sixth, Feder furthermore confirms the statements of Sandberger on the witness stand, on page 2212 - 13, 2397, 2437, of the English transcript, to the effect that the Estonian homeguard and the Estonian police authorities were subordinated to the Kommando of the Army in Estonia at the time.

Seven. Furthermore, Feder confirms Sandberger's statements in the witness stand, page 2197 of the English transcript, to the effect that in July 1941, in Pleskau, -- no agency of the Sonderkommando 1 was instituted, but that the Sub-Kommando was subordinated to the 58th Infantry Division of the Army and only marched through Pleskau -- at that time.

Eight. He furthermore confirms that he received the order from Sandberger to deal with any GII auxiliary task that might come up for the Army.

I now submit Sandberger Document Number 19, Sandberger Document Book Number 1 on page 58, Affidavit Strauch, Exhibit Number 7. Strauch makes in this affidavit, from his own knowledge, statements which refer to end of 1941 till March 1942. In those days Strauch was in charge of all tasks of Department Chief III with the Commander of the Security Police

and the SD in Riga. Strauch confirms that a certain Dr. Lange, who was responsible for all Jewish questions in the territory of the Einsatzgruppe A at that time and the Commander of the Security Police and the SD in Riga, that in this time that was just mentioned at least two Staff members in the presence of Stahlecker it had stated that the order, the Fuehrer order concerning the elimination of Jews in the territory of Special Kommando 1a, therefore in the territory of which Sandberger was in charge, had not been carried out, and that this fact was the more inconceivable as the number of Jews there was a very low one and that, therefore, it had been concluded that Sandberger had not the wish to deal with these matters. Furthermore, Strauch says that Stahlecker thereupon said that he had told Sandberger on various occasions that this order must now be carried out and at his next meeting with Sandberger he would draw his attention to this again. Strauch furthermore talks about a discussion which he had in Winter 1941-1942 in the presence of Stahlecker with the SS Obergruppenfuehrer Jeckeln in Riga. During this discussion Jeckeln told Strauch, amongst other things, that he, Jeckeln, had discovered a number of Jews on an official trip in one of the localities and ordered their execution immediately personally. Strauch claims that he does not remember the name of this locality in question, especially as he had nothing to do with these matters at the time; but he remembers that it is a locality in the territory of the Sandberger assignment. "I think it is possible that it was Pleskau." In this connection, I may draw the attention of the Tribunal to the fact that in an affidavit of the, Ambassador Winnecker, which I shall submit at a later point, it becomes evident that Winnecker, not from his own knowledge admittedly, but from hearsay, had found out that Sandberger, contrary to orders which he had received, had taken Estonian Jews to Pleskau, where they were living in a camp up to that time when Obergruppenfuehrer Jeckeln got hold of them.

I offer Sandberger Prosecution Exhibit No. 8, on page 53 of Document Book 1, Sandberger Document 18, an affidavit by Dr. Gustav Adolf Scheel. Scheel has known Sandberger since 1933. He was Sandberger's chief of the SD during the years 1935 until 1939. He confirms Sandberger's statements on the witness stand, pages 2143, - 44, --

THE PRESIDENT: Dr. von Stein, it isn't necessary to refer to the transcript. You are giving us argument when you tell us that it confirms this, it confirms that. All we need now is a general idea of what each document contains and if you only read what you have in the index under the heading "content," that would be just about what we would want. Where you have a very particularly important document and you want to be a little more specific, I think that it would be in order to dwell a little longer on it; but for you to be referring constantly to the transcript and giving us the page numbers, that is not part of the presentation of documents.

DR. VON STEIN: I only wanted to explain to the Tribunal the reason why I submitted the documents because sometimes, without any oral comment, it does not become evident what the document is meant to represent and what it signifies. For this reason I believe that a few documents have to have a comment in order that the Tribunal might see the reason why it is submitted.

THE PRESIDENT: Well, yes, but it isn't necessary to refer to the page number in the transcript.

DR. VON STEIN: I shall limit myself, Your Honor, as far as is possible. Dr. Scheel furthermore confirms, in his capacity as the former Reich Students Leader, that Sandberger from November 1936 up to the time he fell ill in 1939 interested himself in matters of the German Students Association and that in a more extensive way than in matters of the SD. Dr. Scheel says furthermore that through the beginning of the war Sandberger could not possible leave the SD service. As Dr. Scheel, from 1935 until 1941, held high position in the SD, he must be regarded as an expert in these questions and certainly somebody whose testimony carries

some weight. Dr. Scheel confirms, furthermore, that Sandberger in 1941 applied to him with the urgent request that he might ask for him in the RSHA in a capacity dealing with matters of the German Students Association.

Next I offer Sandberger Exhibit No. 9, from Sandberger Document Book I, Document No. 1, affidavit of Dr. Reinhold Baessler. Dr. Baessler confirms the statements of Dr. Scheel and of the defendant Sandberger concerning Sandberger's activity for the Students Association, 1936 to 1939.

Next I offer as Exhibit No. 10, from Sandberger Book I, Document No. 4, affidavit of Eiseler, who from 1936 to 1939 was in the subdepartment of the SD of Stuttgart, in the security service administration district southwest. He confirms Sandberger's statements on various points, expecially the impossibility of leaving the SD service after the war had broken out.

Next I offer Exhibit No. 11 from Document Book Sandberger 1, Document No. 11, page 30, affidavit of Dr. Klaus Huegel, who in 1938 was in the Foreign Department of the SD Stuttgart and in 1944 he was in Office 6 of the RSHA in Berlin. He expresses himself about the character and activities of Office 6 of the RSHA and about the nature, which has nothing to do with police matters, of Sandberger's job.

Next, from Document Book Sandberger No. 1, I offer Document No. 14, Exhibit No. 12, affidavit by the architect Lambert von Malsen-Ponickau, concerning the nature of the immigration office. Furthermore, I submit from Document Book I, Document No. 10, on page 27, and I offer it as Sandberger Exhibit No. 13, affidavit of Rudolf Hotzel, who in 1940-1941 was in Office 1 of the RSHA and was an immediate colleague of the defendant Sandberger and in 1942 was Chief of the Training Group in Office 1 of the RSHA. He confirms that this secrecy between individual departments of the RSHA was particularly strict in those days and he confirms: "In the group in which Sandberger and I served, Group 1-B of the RSHA, we certainly never found out about any matters of other departments of the RSHA. Decrees and directives of Office 4, we were never enlightened about and we never even

heard rumors about them."

The same facts are confirmed by Governor Councillor Reinhard Broder, whose affidavit is contained in Document Book I as Document No. 2 on page 3, and, which I offer as Sandberger Exhibit No. 14 concerning Sandberger's activity in Department No. 3 of the BDS, Verona.

I offer from Sandberger's Document Book I, Document No. 20, page 61, affidavit of Julius Wilbertz, which I offer as Sandberger Exhibit No. 15. Wilbertz informs us that extensive reports of Sandberger's were against matters which were of detrimental effects to the Italian population and that the SD reports pursued the aim to satisfy the needs of the Italian people under any circumstances. Wilbertz furthermore confirms that Sandberger's tasks in Verona had nothing to do with the field of activity of the State Police.

The next five affidavits which I shall submit refer to the human attitude of the defendant Sandberger. All five confirm that it is correct if Sandberger explains to the questions of the President and also in cross examination the other questions of the Prosecution that some measures, directives, of the Government or the Party, he did not agree with.

The next three affidavits confirm that Sandberger most obviously did not have the usual Party attitude toward the Jewish question. I submit and I offer as Sandberger's Exhibit No. 16 the affidavit of the lawyer, Dr. Wolfgang Heintzeler who is at the moment assistent defense counsel in Nurnberg, in Case 6. It is Document No. 9, affidavit by Dr. Wolfgang Heintzeler. The affidavit refers to the years 1931 to 1934. Dr. Heintzeler mentions two examples which confirm, as he says, the fact that Sandberger, in spite of his National Socialist attitude, had a very liberal view concerning the Jewish question and did not agree with the usual Party attitude toward the Jewish question.

Next I offer as Sandberger Exhibit No. 17, affidavit of High School teacher Johanna Haist, Sandberger Document Book 1, Document No. 6, referring to the year 1933, which confirms the fact that Sandberger had no anti-

Jewish attitude.

I offer as Exhibit Sandberger No. 18, from Document Book 1, Document No. 8, affidavit by Karl Heinz Hederich, an engineer, referring to the year 1944 and describing successful attempts of the witness Hederich and the defendant Sandberger concerning the improvement of the situation of the Jewish personalities in Budapest and in Berlin.

The next two affidavits describe in conformity the fact that Sandberger in 1938 supported agencies of the Protestant Party in Wurtenburg to improve the situation and the work of the church and to eliminate any obstacles which might be caused by other agencies. Sandberger acted in this, within the sphere of his Protestant activities, for the German Students Associations and in agreement with his chief, Dr. Gustav Adolf Scheel. The affidavit of Parson Dr. Eberhard Mueller refers to the same incident. It is Sandberger Book I, Document No. 16, which I offer as Sandberger Exhibit No. 19. The Parson, Dr. Eberhard Mueller, who was at that time General Secretary of the German Christian Students' Associations, representing the German Branch of the Christian student World Union. He is today the chief of all Protestant Christian academies in Germany.

DR. VON STEIN: (Continued) Parson Dr. Mueller established among other things that the motive for Sandberger's conduct was that he agreed with the opinion of his chief, Dr. Scheel, that a prohibition of church work did not agree with the idealistic attitude of the National Socialists. Parson Dr. Mueller furthermore confirms that Sandberger through his conduct endangered himself and his position considerably because obviously in the circles of the German Christian Students Association it was again and again discussed that the Reich Students leadership had made it possible for this work to be carried on. These statements on the part of Parson Dr. Eberhard Mueller confirm the next affidavit which goes beyond these borders. I offer it as Exhibit 20. It is Sandberger Book I, Document 17, on page 47. This is the affidavit of Oberkirchenrat "Senior Church Councillor) Wilhelm Pressel in Stuttgart. He was the students' Parson of the Protestant church in Tuebingen and has known Sandberger since 1931. Since 1933 Oberkirchenrat Pressel, up to this very day, is a close collaborator of District Bishop Wurm in Stuttgart. Bishop Wurm during this time was the leader of the Protestant Church in Wuerttemberg. Since 1945 he is President of the Protestant Church in Germany. Concerning the friendly attitude that Sandberger took toward the church in 1938, as stated by Parson Dr. Mueller Oberkirchenrat Pressel says, literally, "that Dr. Sandberger conducted these discussions in so loyal and proper manner although my political - - - -

THE PRESIDENT: Just a moment, Dr. von Stein, the interpreter wants to confirm a certain word.

DR. VON STEIN: I shall repeat what I have just been reading. Oberkirchenrat Pressel says literally, that Dr. Sandberger conducted these discussions with the said result in such a loyal and decent manner although Sandberger knew about the fact that I was politically persecuted in this case. Oberkirchenrat Pressel was known to him and I think it is very laudible of him and I shall never forget this. Sandberger's behaviour and conduct in 1938 is described by Oberkirchenrat Pressel and he says that this group in public were representatives of the idealistic and

decent group of the NSDAP who attempted to suppress any forced measures within the party or make them impossible.

Concerning Sandberger's attitude in the years 1931 and 1932 Oberkirchenrat Pressel says from his own knowledge: "I met him in those days as a man of idealistic and decent character. For idealistic reasons he joined the NSDAP and he was convinced that the leading men of the NSDAP wanted the very best for the German people, that their rules and their basic principles in the fight against dirt and misery and against public corruption and growing demoralization as well as the promises of political socialistic revolution based on law and orderliness and positive Christianity were meant seriously and honestly."

This concludes, your Honor, my presentation of documents today. I have a few further documents which have already been translated and have been here since the 15th of the month but I have not received copies. Furthermore there is a supplement to this document book I-A which I have submitted. I have not heard about this document book up to this date whether translated or not. I now ask your Honor whether he would be able to tell me whether I shall be in a position to submit, to offer these documents.

THE PRESIDENT: You will certainly be allowed to submit these documents. No one will be denied the fullest opportunity to present all relevant documents. We are only saying that the schedule for tomorrow is that we will proceed with the rebuttal testimony to be submitted by the Prosecution. Then we will take up the matter of what is still left to be heard.

DR. VON STEIN: My question, your Honor, was not to the effect whether I would be able to submit my documents but I was going to ask you whether I might personally submit them here in court after the rebuttal.

THE PRESIDENT: Well yes, that was the intention of our reply, that you will be permitted to present whatever documents you have, in court.

DR. VON STEIN: Thank you. Another request, your Honor. Your Honor, there has come to my knowledge that there are a number of translation

mistakes, differences in the German and English text. I have already had a list made of such mistakes and I would like to know whether these mistakes should be presented in court here or whether I should go through with them with Mr. Glancy and have these mistakes corrected in the transcript officially.

THE PRESIDENT: Yes, if you and Mr. Glancy can agree upon the correction then it would be enough if you prepare an errata sheet and submit it to the person in charge of the transcript.

DR. VON STEIN: In case there should be any misunderstanding, your Honor, will I be permitted to present these matters in court here so that the Tribunal may make a ruling about these?

THE PRESIDENT: By all means, Dr. von Stein. The Tribunal will now be in recess until tomorrow morning at 9:30.

THE MARSHAL: The Tribunal is again in session.

DR. KRAUSE(ATTORNEY FOR THE DEFENDANT HAENSCH): Your Honor, The Secretary-General drew my attention to the fact that the document numbers Haensch 1 through 4 occurred twice, that is, in connection with the submission of the documents which are with the documents of the Witness Schreyer, who was heard on the witness stand. I would like you to permit me to make a change. I would like that the documents in Document Book No. I which up to now bore the numbers 1, 2, 3, and 4, now be called 1a, 2a, 3a, and 4a. The document submitted yesterday in the form of an index card of the dentist, Dr. Maennel, will now receive Exhibit No. 34, Document No. 33.

THE PRESIDENT: Very well. The record will show that.

MR. WALTON: If your Honors please, the prosecution has one document to introduce in the case of Ohlendorf. Dr. Aschenauer has been patiently waiting all day, but I don't want to impede the defense counsel which are waiting. My understanding is that the plans of the Tribunal are to have Dr. Aschenauer begin his closing statement right after the afternoon, or the noon recess. If it is agreeable with Dr. Aschenauer and for the Tribunal and because of a matter of some importance which has come up in my office, I would like to reserve the right, before Dr. Aschenauer gets started this afternoon -- it will take not more than five minutes -- to offer my document and then hear from Dr. Aschenauer, so that I can leave for my office at the present time.

THE PRESIDENT: Do you want to do it now? Do you want to take five minutes?

MR. WALTON: Sir, there will be some objections, which Dr. Aschenauer desires to put and I thought when he took the podium, he could keep it.

THE PRESIDENT: Very well.

Dr. von Stein?

DR. VON STEIN (ATTORNEY FOR THE DEFENDANT SANDBERGER): I have submitted one document book for the defendant Sandberger, and I am now about

to submit Document Book I-A.

From Document Book I-A, I now offer as Exhibit No. 21, Sandberger Document No. 23. It is an affidavit of one Harry Hanke, the former Radio Chief of the Staff of Einsatzgruppe A. He says from his own knowledge that Sandberger during the second half of September and the beginning of October 1941, was not in Esthonia, but in the territory south of Leningrad and secondly that the Chief of the Einsatzgruppe, Dr. Stahlecker, at the end of September, 1941, was in Riga.

I now submit as my next document, Sandberger Exhibit No. 22, Sandberger Document No. 24. It is in Document Book I-A, the affidavit of one Margarethe Oettinger. She also testifies that Sandberger during the mentioned time was in the frontal sector near Leningrad and that during this time the rear army territory in Esthonia was not subordinated to him, but that his deputy was in charge of that area. Furthermore, she testifies in accordance with Sandberger's direct examination that Reval was under Einsatzgruppe A at that time. Furthermore, she confirms the statements that Sandberger made in the witness box, answering the question put by the President concerning his absence from Reval in March and April 1942. Finally Miss Oettinger testifies from her own knowledge as to the facts which I have already mentioned when my affidavit was submitted, the affidavit of von Rechter. It was Exhibit No. 1.

Now I submit Sandberger Exhibit No. 23, Document No. 26, Document Book I-A, page 24, the affidavit of Criminal Commissar, Johannes Feder, who was a Sub-Kommando Chief in the Special Kommando 1-A. He confirms in this affidavit the correctness and accurateness of those statements which Sandberger made when he was on the witness stand concerning the days of his absence from Riga from the 1st to the 4th of July, 1941.

I submit and offer from Document Book No. 1-A, page 60, Sandberger Document No. 37, which I offer as Sandberger Exhibit No. 24, the affidavit of Dr. Adolf Windecker. Windecker was a special plenipotentiary in the Foreign Office for the Baltic Countries and he has known the defendant Sandberger during the years 1941 to 1943. In this affidavit he quotes from a report which he sent voluntarily in November 1947 to the prosecution to Professor Kempner. In this affidavit he says that Sandberger supported and aided Estonian Jews, contrary to the orders received and that he had transported them to Pleskau where they were living in a camp up to the time when Obergruppenfuehrer Jackeln got hold of them. Herr Windecker also makes a positive general statement as to Sandberger's activities in Estonia.

My next document, which I offer as Sandberger Exhibit No. 25, is Sandberger Document No. 25, page 15, the affidavit of Gerhard Utikal. In May and June 1947 the affiant was in the same cell in the prison in Nurnberg with Sandberger. In order to explain this document, I may remind the Tribunal of the fact that Sandberger answered my question, with the permission of the President, when he was on the witness stand by giving a supplementary remark which was an explanation for the affidavit which he made out on the 23d of April, 1947. It was the question why in this affidavit nothing had been said about the examination and investigation of Communists. Sandberger testified in explanation of this that he wanted to say this, but that the Interrogator did not permit him to do so, and that the interrogator pointed out to him that he would be able to make such supplementary remarks in the near future. Furthermore, Sandberger

stated that he had assumed that this would be possible for him to do in the near future and he had prepared documents concerning this in his cell and he was still in the possession of these documents. The affidavit by Utikal refers to the fact that Sandberger told him about these matters and that he himself had made the observation that Sandberger had made preparatory notes for an interrogation which was to come and that apart from this, in order to explain this particular procedure, he prepared a chart concerning this Communist matter. I submit a photostat of this chart and explanatory remarks concerning the chart. They are all documents made by Sandberger in Spring 1947 in his cell in Nurnberg in the presence of the affiant Gerhard Utikal.

I next offer Sandberger Exhibit No. 26, Sandberger Document No. 27, the affidavit of the merchant, Herbert von Dehn, who is now living in Kassel. He confirms from his own knowledge that as far as Communist activity in Russia was concerned, individual proceedings took place and that interrogations and investigations took place. Herr von Dehn speaks at some length about Sandberger's conciliatory attitude towards the Esthonian people.

I submit from Document Book No. 1-A, Sandberger Document 36 as Exhibit 27, the affidavit of one Carl Walter . Herr Walter had a leading position as an official between 1941 and 1944 in the German Administration in Reval. From his affidavit it becomes evident that Sandberger was even just,as far as Communist activities were concerned, and that he suggested amnesties to the Governor General on various occasions and that he took measures against denouncers. He furthermore speaks about his friendly attitude towards the Esthonians and he gives various examples. He says that Sandberger attempted to get the Foreign Office to make Esthonia. A Sovereign state according to international law.

As Sandberger Exhibit No. 28, I offer and submit Document No. 34, Affidavit of Fumy. Fumy was a Criminal Commissar in Office IV of the RSHA, the Reich Security Main Office, and as such he worked on the situation

reports received. This affidavit which I herewith submit supplements all the statements, the extensive statements, which Fumy made in the Ohlendorf Document No. 32, which has already been submitted by my colleague, Dr. Aschenauer. Fumy comments on the situation in the office for the reports which went from Reval to Berlin and refers especially to the operation events 88 and 111, which were submitted by the prosecution. He also confirms the statements which the Defendant Sandberger made when he was on the witness stand concerning operation Events 88 and 155.

I submit from Document Book I-A, Sandberger Document 21 as Exhibit No. 29, the affidavit of one Dr. Hans Ehrlich, Group Chief in Office III of the Reich Security Main Office during the entire time of the war. Dr. Ehrlich confirms from his own knowledge that Sandberger's most important work was the Information and News Service in the domestic spheres. Dr. Ehrlich furthermore states that Sandberger had seen his main task in convincing the German agencies that Esthonia, within the program of a European new order, would have to receive its autonomy.

I submit and offer Sandberger Document No. 22, Exhibit No. 30, the affidavit of the Swedish Major Carl Mothander in Stockholm. Major Mothander knows Sandberger because during Sandberger's period of service in Esthonia he stayed in Esthonia on various occasions, for example, as a member of an investigating delegation of the Swedish Government, then as the Managing Director of an Esthonian Aid Committee in Stockholm, then as the representation of the Swedish Red Cross, then as the sole plenipotentiary of the Swedish Government for the transfer of Esthonian Swedes to Sweden. Owing to his familiarity with the people and the country in Esthonia and based on a number of discussions with Sandberger, Major Mothander says that Sandberger supported the Swedish Government constantly in this resettlement program of Swedes in Esthonia. In conclusion Mothander gives testimony as to the character of Sandberger. I quote:

"Political Police-Service is certainly pleasant in no country. Dr. Sandberger appeared to suffer on account of it often as a man. I got the

impression that there must have been friction with higher superiors. A natural tendency to human kindness and justice often betrayed itself in his nature. For that reason he was always open to what is called "Argumentum ad hominem'."

He furthermore states that now in order not only to support this testimony but by his own attitude and by his own impression he had discussed it with a former clergyman, a man called Roehl in Reval, who at that time also had been able to dance behind the scenes in Esthonia and he agrees with Mothander's attitude about Sandberger.

I submit from Document Book Sandberger I-A, Document No. 33, which I offer and submit as Exhibit No. 31, the affidavit of one Dr. Bruno Peter von Kleist who lives in Reinbek, who confirms that Sandberger with all the means at his disposal took part in the attempt to compel the Reich Government to carry out a certain autonomy in Esthonia. From a number of remarks in Esthonian circles, Dr. von Kleist found out that the Esthonians often sought Sandberger's protection when German agencies became rambunctious.

I offer as my next document, Sandberger Exhibit No. 32, Document No. 28, the affidavit of one Heinrich Bernhard, who from 1935 to 1938 was the Chief of the Main Department for Foreign Countries in the SD sector in Stuttgart and from 1939 to 1945 was Departmental Chief in office VI in the RSHA, the Reich Security Main Office, who confirms the statements of Dr. Scheel, Eiseler, and Sandberger concerning the involuntariness of cooperation with the SD during the war.

The next affidavit concerns the activity of Sandberger in the office of the RSHA between 1944 and 1945. The Affidavit of Erich Olbrueck who lives in Schmilling near Arolsen. Document No. 29 I offer which is Sandberger's Exhibit No. 33. Olbrueck gives the personnel and political policies which Sandberger practiced. Furthermore, he reports that in May 1945 Sandberger reported voluntarily to the US Army. The next three affidavits concern the activity in Office VI the RSHA in 1944 and 1945. I offer from Document Book I-A Document No. 30, affidavit of one Dr. Gisel-her Wirsing, which is offered as Exhibit No. 34, concerning the activity of Office VI of the Reich Security Main Office. Then there is document No. 35, affidavit of one Dr. Paeffgen , who between '43 and '45 was active as the Security Chief in Office VI for England and America. I offer it as Exhibit No. 35. This affidavit also refers to activity of Office VI of the RSHA. Next I offer Document No. 31 as the affi-davit of former chief of Office VI in the RSHA, one Walter Schellenberg. I offer it as Document Exhibit No.36. Schellenberg among other things reports that in the course of his activity, especially in the activity in Estonia, Sandberger got in disgrace with a number of his superiors, and "I remember very well that Sandberger was criticized very unfavor-ably in Office LV, especially by its Office Chief Mueller", and they made a number of derogatory remarks about him. Schellenberg further-more reports that suggestions were made to transfer Sandberger and to promote him and that they were refused by Heydrich and by Kaltenbrunner on two occasions. He comments on Prosecution Document 5045, which is Exhibit 182 of the Prosecution, which came up during the cross examinat-ion of Sandberger and he reports, and I quote: "He had confidential discussions with him, the affiant, which were conducted with great can-dor, and he made remarks saying that he was very worried about the policy of the German Government, which he considered wrong. He objected to all strict political measures, against measures which were opposed to the church and measures against the Jews. Next I submit Document No. 3

affidavit of Heinz 'Wanninger, 2 January 1948, which I offer as Exhibit No. 37. Wanninger w s in 1944 and 1945 Chief of the personnel department of the RSHA. The Prosecution Document 3045, Exhibit No. 182, bears his name. He comments on how it was possible that data concerning personnel matte rs were inaccurate in documents of the RSHA. Furthermore, he confirms statements which also are in the affidavit by Rudolf Hotzel. He says that the secrecy among the various offices was very strict, and as a member of Office I I didn't know about any activities of other offices in the RSHA, and especially no sofar as Office IV was concerned.

Now I come to Document Book No. II. In order to bring proof of the inaccuracies in Document 5045, particularly the dates, I now submit and offer as Sandberger's No. 38, a certified copy of the birth certificate of the wife of the defendant Sandberger, Mrs. Eva Sandberger nee Kirschstein, which is in Sandberger's Document Book II, Doc. No. 11, page 61. The comparison between this date and the date of Exhibit No. 182, shows that the date in Exh. 182 is wrong. As my next document I offer and I submit Exhibit No. 39, Document No. 5 on page 50. It is an excerpt from the Prosecution's Document No. 1180, Exhibit No. 34, of Prosecution Volume II-A, that part of the document which has not been submitted by the Prosecution. This document mentioned the members of a leading central committee, especially, those leading Communist Functionaries who in the Summer of 1941 had remained in Estonia on Soviet Orders in order to direct a political underground organization, for the purpose of carrying out espionage acts, sabotage acts, and other illegal activities. Sandberger referred to this list when he was on the witness stand, when he was asked by the Prosectuion who in particular were these people, these people, these leading Communist Functionaries who were named in the report 55 of Prosecution's Document NO 3272. Prosecution Document NO 3279, Prosecution Vol. 1; from the list which I submit in connection with the statement that Sandberger made, it becomes evident that these chief functionaries were not condemned to death because they were Communist Functionaries, but because they were carrying on sabotage and

espionage acts and building up an organization. As my next document I submit Sandberger's Document No. 40, it is document No. 9-C, an excerpt from an article of the Canadian Professor Watson Kirkconell, who wrote this in an English magazine, the "Baltic Review", published in Stockholm. The excerpt which I submit contains a list of groups of people who during the time of the occupation of the Baltic State in 1940 and 1941 were to be liquidated by the NKWD. This list is published by Lithuanian-American circles in New York, and that the author is in possession of a copy of this document.

MR. HOCHWALD: The Prosecution objects to this document, the excerpt of a newspaper is no evidence , moreover, it is immaterial and has no value in the case.

DR. VON STEIN: The reason why I submit this document is to support the testimony of the witness Dr. Mac. This objection was also raised when that witness was on the witness stand, but the Tribunal was kind enough to admit the question, and in order to support this statement I submit this excerpt which states that the original of this list is in New York.

MR. HOCHWALD: This does not change anything in the nature of the document, Your Honor. The document is not a captured document, it is not an affidavit, and it is inadmissible in its form.

DR. VON STEIN: I submit this document mainly in order to bring an illustration from another party. I had relied only on the testimony of the witness Dr. Mac as well as Sandberger, and in order to support this testimony I would like to submit an article which comes from abroad and which confirms the same fact.

MR. HOCHWALD: It would be perfectly correct, if Dr. von Stein would have received an affidavit from the writer of the article offered, that would be corroborative evidence for sure. It would be another question where the evidence on this would be material, but all arguments do not change one fact. An article in a newspaper which is not a captured document, which was not written before 1945, cannot serve as evidence before

the Tribunal.

THE PRESIDENT: I am afraid, Dr. Stein, that would be stretching the rule of liberality a little bit too far, after all, it is merely a comment by some one not involved in the trial.

DR. VON STEIN: Your Honor, I am not in a position to support this evidence by other documents. I only have the opportunity of pointing out documents which originated abroad, and the Tribunal can of course assign any probative value it wishes, but it is not that I only have to submit official documents but I can also submit anything of any probative value, and I think that the views of the foreign press, especially something which appeared in N.Y., might have a certain probative value.

MR. HOCHWALD: If argument of defense counsel would be correct, then it would be easy to decide the case by submitting some articles which are referring to the guilt or innocence of these defendants, if the article appeared in a New York newspaper or in a Washington newspaper, during the time of the trial; the Tribunal would certainly not accept such evidence which in essence is absolutely the same thing. We have never tried, and we would not try to put in evidence ---

DR. VON STEIN: May I point out again, Your Honor, from this Baltic Review, the source from which the original was obtained is listed. Probably that will suffice, as it is not just an article which I offer, but I submit the source which is contained in the document itself.

MR. HOCHWALD: If Dr. von Stein would have put in the original in its form, possibly the exhibit would have been correct, I am not sure as to its contents, but only by giving the source of the article in the newspaper, the Prosecution has no possibilityto check these sources, and would place too much of a burden on the Prosecution to prove the incorrectness of the article.

THE PRESIDENT: Dr. von Stein, don't you see that this type of evidence is like a double-edged sword. If you would be allowed to introduce a newspaper article which could be interpreted favorably to the

defense, the Prosecution then could introduce many newspaper articles to the contrary. Then you have evidence here which is not under the control of the Tribunal. The evidence which comes into the Tribunal must have all the safeguards which go with the ascertainment of truth, examination, cross examination, ascertainment of source of material which you could not have in the mere submission of a newspaper article which could be written by some prejudiced, or some one not in possession of all the facts. It would be a different thing if the question was, did a newspaper article appear or not and that became the issue, but that is not the issue here. Some newspaper man may express a thought, a view and certainly we can not charge the defendants with that thought or view expressed by some one who is not in the courtroom.

DR. VON STEIN: Your Honor, the document contains the source of this statement and is at the disposal of the Prosecution at any time.

MR. HOCHWALD: It is not the burden of the Prosecution but I would like to make it very clear to get the evidence which the defense wants to put in. If Dr. von Stein wants to prove something, he has to put in the exhibit, not the Prosecution can be charged in finding the book in which this evidence alledgedly is to be found.

THE PRESIDENT: We think, Dr. von Stein, in order to preserve the absolute impartiality of the deliberations, that a newspaper article may not be accepted, so the objection of the Prosecution is sustained. I would like to have you make a note, Mr. Hochwald, that one time you were sustained.

MR. HOCHWALD: Thank you very much.

DR. VON STEIN: May I proceed?

THE PRESIDENT: Please do.

DR. VON STEIN: Concerning the question of the Communists in Estonia, I submit No. 41, Sandberger's Document No. 1, in Document Book No. 11, an excerpt from operation events of the RSHA, namely such excerpts from prosecution documents whichwere not submitted by the Prosecution in their document books. Also I submit excerpts, copies from the

so-called reports from the Eastern Occupied Countries, which were published by the RSHA, 1942 and '43, in connection with the operation reports which I had mentioned before. These are in photostatic form in the office of the Prosecution. I would like to thank the Prosecution for permitting me to look through all these reports, and to copy excerpts from the indexes and contents of these books. As Sandberger's Exhibit 42, I submit Document No. 2 in Sandberger's Document Book No. 13. This contains certified excerpts from the Eastern reports submitted by the Prosecution. As Exhibit No. 43, Sandberger's No. 3, page 12-A, excerpt from operation report of 7 November 1941, No. 130. This excerpt describes the methods of the Bolshevist Agents in the area of the Army Group North. Especially the fact that women and juvenile children over fourteen were used by the Russians as agents. Referring to these report of events and reports from Eastern Occupied Territories I may point out the following: The excerpts from the reports of events No. 29 and No. 166, concern the measures of the Soviet in Estonia in the years of 1941 and 1942, and the measures to deport anti-Soviet elements from the Baltic to Siberia. It also concerns the fact that the Soviets in 1941 and '42, deported 60,911 people.

MR. HOCHWALD: If the Tribunal please, I do think it is clear from the presentation by Dr. von Stein, that this document has no value in the case. We object therefore, to the presentation of this document.

THE PRESIDENT: It may not be precisely relevant but we will admit it for whatever probative value it will have, shedding some light on the possible interpretation by the defendants on the historical situation, if it existed.

DR. VON STEIN: The excerpt from report of events, No. 51, concerns itself with the Soviet destruction battalions and excerpt 53 has to do with Communist Partisan activity in Estonia. The reports of events No. 163 and 171, 176, 178, 180 and 191, and the reports from the Occupied Eastern Territories, Nos. 3, 30 and 50, report of this extensive activity of parachutists in Estonia. As for SK I-A, Special Commando 1-A, which Sandberger commanded in Leningrad, Sandberger said that this Commando dealt mainly with G-2 tasks. In this connection I picked out the above-mentioned excerpts from the reports of events, and also one excerpt from report of events 116. This states that the main task of the sub-commando of Einsatzgruppe A before Leningrad was the military and political information service, and the intelligence service methods are explained. In accordance with this I may draw attention to pages 1 and 3 of a Situational Report, in which it is said that Pleskau in June 1941 had been the garrison of SK 1-B but not of SK 1-A. Those are the excerpts submitted by me from reports of events No. 24 and No. 34. It becomes evident from this that the passage contained in the Document 3401 concerning Pleskau, that is in Document Book 2-A, on page 110 of the English Document Book, is objectively wrong. I may refer here to the statement of Sandberger when he was on the witness stand. I now submit documents concerning the general testimony which was made by Dr. Mae, former chief of the Estonian Administration in connection with the conditions which Sandberger found when he arrived in 1941 in Estonia, and also concerning the attitude of the Soviets which led to these conditions. I submit document No. 9-b, page 55, as Exhibit No. 44. That is an excerpt from a newspaper article of the American Citizen, Julius Epstein, entitled "Broken City."

MR. HOCHWALD: The objection is the same as the one on which I was sustained.

THE PRESIDENT: The ruling is the same as the one on which you were sustained.

DR. VON STEIN: I was just about to give the exact source for this document.

THE PRESIDENT: Well, it is from a newspaper article?

DR. VON STEIN: It was published in 1946 in a report, Appendix, of Washington, January 1946.

THE PRESIDENT: Dr. von Stein, it must be apparent to you that we can not accept evidence of that kind. It is no reflection on the newspaper, or the writer of the article, but it is the general principle which is involved, that if you open the door to newspapers, then you will be trying the case on hearsay evidence.

DR. VON STEIN: Your Honor, but the source is given in the newspaper article.

THE PRESIDENT: Don't you see, Dr. von Stein, the person who writes the article is not under oath, he may be mistaken in his source of information, there is no chance for cross examination. I don't think you need to argue that point. We just can not accept them.

DR. VON STEIN: I now offer Document Sandberger 9-E and 9-F in the Document Book on pages 58 and 59, as Exhibits 45 and 46. Then I submit Sandberger Document No. 9-A as Exhibit No. 47, an excerpt from an article by the Estonian Protestant Bishop --

I presume the same thing applies.

THE PRESIDENT: What is the date of that article?

DR. VON STEIN: The date?

THE PRESIDENT: Yes.

DR. VON STEIN: 1946.

THE PRESIDENT: You see, Dr. von Stein, if this newspaper article had been published during the time that Sandberger was there, then it could be evidence of the fact that the newspaper was published, and it stated certain things, but here is a newspaper which came out after the events, which are the subject of this trial, ended.

DR. VON STEIN: Yes, but the newspaper article concerns itself with events of 1940 and '41 in Estonia.

THE PRESIDENT: Yes, then you should have here the man who actually knows of these events.

DR. VON STEIN: As Exhibit Sandberger's No. 49 I submit and offer an excerpt from the Journal Official de la Republique 19 July 1946. This is an excerpt from a speech by --

THE PRESIDENT: It is the same thing.

DR. VON STEIN: I may point out, Your Honor, that this Exhibit No. 49 from the Journal Officiel de la Republique Francaise is a photo-copy of the original.

MR. HOCHWALD: It is not the original article.

THE PRESIDENT: A photostat of what?

DR. VON STEIN: Photostat of the Journal Officiel de la Republique Francaise, and has been certified by a notary public.

THE PRESIDENT: What is the date of the newspaper article?

MR. HOCHWALD: The date of the newspaper is 19 July 1946, Your Honor.

THE PRESIDENT: Suppose you are submitting the newspaper here, it would be subject to the same type of objection. The fact that it is photostated does not magnify the article.

DR. VON STEIN: It is not a general newspaper, but the official organ of the French Republic, one could not compare this with a newspaper.

MR. HOCHWALD: Possibly Dr. von Stein can tell us whether it is an official decree of the French Republic, which of course would change it. If that would be a decree or a regulation or a decision before a French War Crime Court, that would, of course, change the validity of the thing, but if there is only a speech or a subjective opinion of an individual given, that would not be admissible.

DR. VON STEIN: May I take the liberty of pointing out that this is a government report of a Parliamentary session which I am submitting, this is an official document, and not just a newspaper article, as the Prosecution seems to think.

MR. HOCHWALD: Will Dr. von Stein enlighten us whether this was a vote or a decision of the French Assembly, or whether it was a speech.

DR. VON STEIN: I will give a short resume of the contents.

THE PRESIDENT: Just answer his question. Answer Mr. Hochwald's question, please?

DR. VON STEIN: I, also, of course - -

MR. HOCHWALD: The Prosecution is interested to know whether the item which Dr. von Stein wants to submit is a decision of the French Assembly, or whether it is a speech by somebody.

DR. VON STEIN: I must say, of course, that it is a speech, not a decision.

MR. HOCHWALD: We are not in a position to cross-examine the person who made these utterances. The document is inadmissible.

THE PRESIDENT: The objection is sustained.

DR. VON STEIN: In that case I am omitting a number of newspaper articles which I wanted to introduce from German newspapers. I now offer Sandberger's Exhibit 52, which is

Document 10, excerpt from the Manual for General Staff Officers, 1 August 1939. It is an excerpt concerning the responsibility of an Army commander in operational areas about security tasks, and now I submit as Exhibit No. 3 an affidavit of the assistant official Mensel on this document, and he certified that he found 7/8 of all reports coming from Estonia, 10/11, that these reports are purely reports concerning the domestic sphere, therefore, they are reports which were issued by Department III. There are a few additional documents which are contained in Document Book II-A. No. 12 which I offer as Exh. 54 is an expert opinion of Dr. Maurer concerning the applicability of Estonia Law concerning a state of emergency according to Estonian Law and Estonian justice. No. 13, which I offer as Exh. 55, is an excerpt from reports of events 181, which showed that Litsche is not in Estonia, but in the territory of Einsatz-gruppe A, Loknia. I point out that document No. 15 belongs to it.

THE PRESIDENT: Dr. von Stein, you refer to Document Book 2-A. Document Book 2-A contains only documents 16 and 17.

DR. VON STEIN: There is another supplement to this book, Document Book 2-A contains document 12, 13, 14, 15, 16, 14 and 15 and then there is a small supplement, which has 16. and 17.

THE PRESIDENT: Well, we will receive it in order to finish up and then get the documents, of course.

DR. VON STEIN: Document No. 15, which is offered as Exh. 56, is a photostat of Army chart from which it becomes evident where the place Oladice is situated. This is at the lower left end of the chart, and there is also the

location of Loknia on this map, which is in the vicinity of Oladica. No. 16 is Exhibit No. 57, an affidavit by Herbert Degenhardt, describing the relationship between Jaickeln and Sandberger. No. 17 is offered as Sandberger's Exhibit No. 58, an affidavit by one Buchner. Buchner was a member of SK 1-A under Sandberger from the beginning of the assignment, and speaks especially about the events during the advance. With this I have submitted all the documents which are available to me thus far. There is one question which I would like to ask, Mr. President. It is highly probable that I shall receive one or more of the other documents, and if they are important, that is, if the documents concern the case of Sandberger and have special significance, I would like to be permitted to be able to submit these documents.

THE PRESIDENT: I would suggest that if you have another document, submit one copy of course, to the Prosecution and if they have no objection we will receive it without it being presented in open court. If there is an objection then we will hear the objection in open court.

DR. VON STEIN: No, what I mean is, may I be permitted to submit this document after the final pleas?

THE PRESIDENT: Yes, you may submit it but not in open court; once the final pleas are terminated, naturally, we will hear nothing in court.

DR. VON STEIN: No, what I mean is whether I can submit it to the Tribunal if I just hand it directly to the court?

THE PRESIDENT: If it is a matter of a day or two, yes.

MR. HOCHWALD: Do I understand the Tribunal correctly, that eventual objections by the Prosecution can be made in the form of a written motion?

THE PRESIDENT: Yes.

MR. HOCHWALD: Thank you very much.

THE PRESIDENT: Dr. Fritz, how many documents do you have to present?

DR. FRITZ: Four.

DR. BELZER: I have nine.

THE PRESIDENT: Do you mean number nine or "nein" meaning no?

DR. DURCHHOLZ: I just have one document.

DR. SCHWARZ: Twenty-seven documents for Strauch.

MR. HOCHWALD: I have only one for the Prosecution.

DR. DURCHHOLZ: For the defendant Braune, the defense counsel will submit one document this afternoon.

THE PRESIDENT: Dr. Aschenauer, I am sorry you will be delayed a little bit in the presentation of your summation, but just as soon as we finish the acceptance of the documents, you may begin, is that satisfactory?

DR. ASCHENAUER: All right, Your Honor.

THE PRESIDENT: The Tribunal will be in recess until two o'clock.

(Whereupon noon recess until 1400 hours, 3 Febr. 1948)