

**FILMMAKERS FOR THE PROSECUTION**  
**The Making of *Nuremberg: Its Lesson for Today***  
**by Sandra Schulberg**

***Prologue***

The first Nuremberg trial, formally known as the International Military Tribunal, was convened November 20, 1945, in Nuremberg, Germany, to try 22 members of the Nazi leadership.<sup>1</sup> It was the first international criminal trial in history. The case took nearly one year to prosecute; the verdict was rendered October 1, 1946. The lead US prosecutor, and the driving force behind the organization of the trial, was U.S. Supreme Court Justice Robert H. Jackson. During preparation for the trial, Jackson and OSS Chief William (“Wild Bill”) Donovan made the bold and historic decision to use film and photo evidence to convict the Nazis. But first these films had to be found. A special Office of Strategic Services (OSS) film team was formed for this purpose, under the command of Hollywood director John Ford. Brothers Budd and Stuart Schulberg, sons of the former Paramount studio chief B.P. Schulberg, were assigned to this special OSS search team and were dispatched to Europe. Budd was a Navy lieutenant, and his younger brother Stuart a Marine Corps sergeant.<sup>2</sup>

The search for incriminating film was conducted under enormous time pressure, and was sabotaged along the way. The team found hundreds of film reels still smoldering, as though their guardians had been tipped off, and began to suspect leaks from their two German film editors. Just in time for the start of the trial, they did locate significant evidence, which, in close collaboration with Jackson’s staff of lawyers, they edited into a 4-hour film – *The Nazi Plan* – to show in the courtroom. The U.S. prosecution team also presented their compilation of U.S. and British footage, shot when the camps were liberated, entitled *Nazi Concentration Camps*.

Meanwhile, cameramen from the US Army Signal Corps were engaged to film the trial proceedings, in preparation for an official documentary about the case that would incorporate the Nazi footage and the concentration camp footage. The resulting 78-minute film *Nuremberg: Its Lesson for Today* was written and directed by Stuart Schulberg, under the aegis of Pare Lorentz, who was head of the Film/Theatre/Music section of the Civil Affairs Division of the U.S. Department of War. The German-language version, which was completed in 1948, premiered in Stuttgart that autumn and was shown in the Western Zones of Germany in 1948/49. Although top officials at the War Department had intended that the film be seen in the U.S. and rest of the world, they subsequently chose to suppress the film’s release for political reasons. The English-language version was left in rough form, and the original negative was lost or destroyed.

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<sup>1</sup> The International Military Tribunal, hereafter referred to as the Nuremberg trial, originally indicted 24 Nazi defendants. Gustav Krupp was deemed too aged to stand trial. One of them, Robert Ley, committed suicide in the Nuremberg prison. Another, Martin Bormann, was tried in absentia. That left 22 defendants, of whom 21 sat in the courtroom.

<sup>2</sup> The OSS branch to which Budd and Stuart Schulberg were assigned was called the Field Photographic Branch, but they often referred to it simply as ‘Field Photo’. The Field Photo unit assigned to locate Nazi films was referred to in official dispatches as Field Photo – War Crimes.

Thanks to Budd Schulberg's eyewitness account, excerpts from which are quoted below,<sup>3</sup> and the recently discovered documents and letters of the late Stuart Schulberg, it is possible to go behind the scenes for the first time, and piece together this untold story.

### ***How Soon Can I Have It?***

Budd Schulberg begins the story:

*"What can I say about the inspiration as well as the pressure of working for two such charismatic and demanding overseers as General Bill Donovan and US Navy Commander John Ford? The greatest film director of his day (Stagecoach, The Grapes of Wrath, The Informer), John Ford (born Aloysius O'Feeney) was in charge of the OSS Field Photographic Branch to which I had been assigned as a freshly minted Naval Ensign.*

*"I suggested that we could screen and break down all the film on the Nazi period already collected and organize a search through Europe for secret and previously undiscovered Nazi films. 'Good,' said General Donovan, who always expected miracles and sometimes surprised himself by getting them. 'How soon can I have it?'*

*"Forty-eight hours later I was in New York City, running through the impressive stock library of Fox Movietone News with one of our film editors, Joe Zigman, a hulking Brooklyn boy who looked incongruous in his tight-fitting sailor suit, and Dr. Karl Jacoby, our technical expert, a public prosecutor in Berlin before 1933 who had somehow maneuvered his way out of Germany in the summer of 1941. Jacoby, enthusiastic and thorough, if somewhat eccentric, would grow so excited when recognizing an early and incriminating shot of Goering or Hess that he would grab the ever-patient Joe around the neck, shouting, 'Stop! Stop! There he is!' often grabbing the controls of the Moviola himself, inevitably knotting the film and causing endless delay.*

*"In spite of these minor disturbances, we managed to screen approximately 20,000 feet a day, stopping, re-running and translating until at the end of two weeks we had boiled down several hundred thousand feet to 65,000, which we analyzed and catalogued. Much of this was later discarded, as we came across even more incriminating material, but it was from this initial screening that we found such items as Goering's speech as Minister of Interior for Prussia, before the Nazis' ascent to power, threatening to 'sweep Germany clean with an iron broom of every kind of opposition'; Goebbels' exhortation to the SA on the eve of the first organized anti-Semitic riot; and the first of the shameful book burnings.*

*"From approximately 500,000 feet of this illicitly obtained material, we were able to document Nazi aggression from the first illegal strike across the Polish frontier (thoroughly covered by the Wochenschau cameramen with close shots of Wehrmacht soldiers ripping the Polish insignia off the border gates) until the August 1, 1944 edition, in which Major Rehmer, Hitler Jugend<sup>4</sup> alumnus credited with putting down the July 20 anti-Hitler Putsch, screams at his company of Wehrmacht Honor Guards that they are not merely soldiers but political soldiers who must take their orders directly from Der Führer and his deputies, thereby*

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<sup>3</sup> This article, including Budd and Stuart Schulberg's quoted recollections, is excerpted from the manuscript of a forthcoming book, *The Celluloid Noose*, by Budd & Sandra Schulberg. Budd Schulberg used the same title for an article he wrote in 1946; used by permission. All of the quotations from Budd Schulberg in this article are from this same source, the unpublished MS.

<sup>4</sup> The *Hitler Jugend* provided military training to teenagers from age 14.

indicating the split between some of the German High Command from their Nazi military partners, like the *Waffen SS*.

*"We supplemented this newsreel material with sequences from Nazi documentary films, some of which had already been analyzed by the OSS Film Library group, while others were obtained from the Museum of Modern Art and the Alien Property Custodian, who had confiscated Nazi propaganda films showing in Yorkville [a German community in New York City] and other German communities at the outbreak of the war.*

*"One of the most edifying of these was the eleven-reel Leni Riefenstahl epic, *Triumph of the Will*, documenting the 1934 Party Congress at Nuremberg, which contains such jewels as Minister of Economy Hjalmar Schacht's appearance in the front row with a Party emblem in his buttonhole, thereby contradicting his assertion that he was a pure economist and never a Nazi; the German High Command reviewing SS, SA, and *Flieger Korps* detachments; and Minister of Justice Hans Frank's<sup>5</sup> somewhat novel interpretation of justice, "There is no other justice but the will of Adolph Hitler."*

### **S.N.A.F.U.**

Navy Lieutenant Edgar ("Ray") Kellogg, was second in command to Ford and acting chief of the special OSS Field Photo – War Crimes unit. Born in Iowa, Kellogg became a special effects wizard at 20th Century Fox. By the end of his career, his credits totaled 100 films, including five that starred Marilyn Monroe. While Budd was sifting through German films in Washington and New York, Kellogg dispatched Daniel Fuchs and the unit's youngest officer, Stuart Schulberg, to Europe to begin the hunt for undiscovered footage. By mid-July (1945), after what he judged unconscionable delays, Stuart concluded that the situation was, in GI slang, S.N.A.F.U: "Situation Normal – All Fucked Up."

Newly arrived in Germany, Stuart described the psychological climate:

*"The people hate us; there is no question of that...I don't think we will have much luck in converting these people to democratic thinking. To them, our attempts at education are 'American propaganda.'"*<sup>6</sup>

It had been nearly a month since Stuart had reported for duty in Europe. The work was "deadlocked," and he feared they would not find the evidence they were seeking in time. Then he heard that two OSS film editors – his friends Bob Parrish (Oscar-winning editor of *Body and Soul*) and Joe Zigman (who would later edit *Nuremberg*) – were due to arrive by August 1. That was reason for hope that that the OSS would get the all-important job done in time. A few days later, the lowly sergeant was finally able to commandeer transport to Bayreuth, in northern Bavaria, where he located an important cache of film.

*"SS<sup>7</sup> prisoners did all the work, loading and securing the crates...Two very business-like GIs stood by with carbines trained on them. [The SS men] had to work very hard. They still had their black uniforms on, and their cocky little overseas hats. Four of them were true Aryan types, with close-cropped hair and Nordic jaws. The other two were idiots, I think, real imbeciles. They looked like men who could be ordered to beat a man to death and carry out the order without even a flickering of conscience or doubt. Their mouths hung*

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<sup>5</sup> Hans Frank was made Minister of Justice for Bavaria in 1933, and in 1939, Governor-General of occupied Poland.

<sup>6</sup> Letter from Stuart Schulberg to Barbara Schulberg, July 24, 1945, Schulberg Family Archive.

<sup>7</sup> The SS, short for *Schutzstaffel* ("defense corps"), was formed in 1923 as a cadre of bodyguards for important Nazi officers. The SS was taken over by Heinrich Himmler in 1929, and under his leadership took charge of the concentration camps and many other aspects of the Nazi terror.

*open, and even the other SS men taunted them. The Aryan SS'ers were suffering – we could see that. Whenever they got orders from us, their lips curled a little. It reminded me of the tigers and lions who perform in the circus ring, obeying in a sullen whipped, mad way.”<sup>8</sup>*

As recorded in this letter, their subjugation troubled Stuart, but then he forced himself to remember their terrible deeds. That same day, July 24, he delivered the film to London by plane, but there was no one to meet the shipment even though he had cabled ahead. Only after repeated calls to OSS headquarters did a truck driver appear, hours late. By then, all the airport workers had long gone, and Stuart had to unload the crates of film himself.

### ***No End in Sight***

The delays weighed terribly on the young sergeant. It was early August, and the trial was set to open September 1. Yet no one was ready – neither the film hunters, nor the prosecutors. The judges had yet to meet (and would not do so until October 13).

By August 23, Stuart was still on his own, although he had gotten back into the field and found more valuable film at the Bavaria Studio. Despite this bit of progress, he despaired that the film unit would get the job done by the start of the trial, even though it had just been postponed until September 15.

Stuart's older brother Budd finally arrived in Germany at the end of August, and Stuart hoped that Budd, as the more senior officer, would be able to cut through the red tape. Budd planned to send the editors – Parrish and Zigman – to Wiesbaden, where Stuart could supervise the office. But the cutters didn't arrive until September 12, and Stuart bemoaned that three months had been lost. Fortunately, the trial was now postponed again.

Budd and members of his procurement team set up headquarters on the outskirts of Berlin, in Wannsee, where OSS Lt. Jack (“Stinky”) Munroe commandeered two lovely villas, side by side. They would sleep in one and edit in the other.

On September 16, they learned that Gen. Donovan had arranged for the Field Photo team to have its own plane to shuttle between London, Paris, Wiesbaden, Nuremberg, and Berlin. Budd took the plane and disappeared for a week, looking for Nazi film that had been sold on the black market to private collectors in Switzerland, Spain, and Portugal. Justice Jackson was furious. It turned out that the plane had been meant for his use, not for the film team.

Field Photo officers might be too low on the totem pole to warrant their own plane, but the pressure to deliver incriminating evidence was mounting, and as Budd recounts, they still had to find new material.

*“For this work, we added to our staff an Alsatian film editor formerly on Goebbels staff, who had become, through the ironies of war, a French national, and was anxious to bird-dog our expedition in order to prove himself as good a Frenchman as he had recently been a German. According to this informant, Walter Rode, the largest secret vault of the German Film Archive was in the shaft of a granite quarry just outside the village of Rüdersdorf, about three miles east of Berlin, in the Soviet Zone.*

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<sup>8</sup> Letter from Stuart Schulberg to Barbara Schulberg, July 24, 1945, Schulberg Family Archive.

*“After complicated negotiations with the Soviet colonel commanding that area, we finally obtained permission to enter Rüdersdorf, accompanied by a Red Army officer, Major [Yuri] Viergang, a smartly uniformed, dashing fellow with thin waxed mustaches who looked more like a character out of War and Peace than a contemporary. With Major Viergang, we drove further into Soviet-occupied Germany, so we were told, than any Americans had been allowed to penetrate. To reach the granite quarry outside the village, we had to walk through a tunnel several yards long, which had been used as an underground vault for Nazi valuables.”*

### **Charred Film Cans**

*“When we came out into the light again, we were confronted by one of the most amazing and dismaying sights I have ever seen: Burned film and charred film cans stretching for acres in every direction. The shaft into the mountainside, which Rode had described to us so accurately, extending into the granite quarry some two hundred feet, was piled six feet high with more burned film. Burrowing down to the bottom, we found some footage only partially destroyed that clearly indicated Nazi coverage of concentration camps, which Rode himself claimed to have seen. Later, we were able to introduce these fragments at the trial.*

*“The fire at Rüdersdorf – which consumed at least a million feet of film (some estimates run much higher) – undoubtedly wiped out a film record of the Nazi regime as seen from inside that would have been of permanent and invaluable historical import. According to Germans in the vicinity, the fire had taken place only a short time before our arrival. The Germans, including the Bürgermeister [mayor], were unanimous in pinning the blame on drunken Red Army soldiers who, they told us, staggered into the archive one night and started the conflagration with torches. The resulting explosion was said to have been so powerful that several cans of film were blown all the way into the village.*

*“Major Viergang scoffed at the Germans’ story. The film had obviously been sealed up in the mountainside, he said. It was so expertly hidden that only someone who had known in advance exactly where it was could have located it. Viergang also expressed considerable doubt as to whether such an explosion could have been started accidentally by torches. It would have required demolition, he pointed out, to open the sealed shaft.*

*“It became more obvious during the ensuing weeks that the Nazis had destroyed their most incriminating films through a carefully premeditated plan. On another tip from Rode, we found a second film archive site in a salt mine at Grasleben, near the Belsen concentration camp. But here also we found that the film was burned. According to the official report of the fire, it had been started by German workmen who accidentally kicked over oil lamps while helping British soldiers remove the film from the vault. A likely story. We also searched the Glockenspiel of the Olympic Stadium, rumored to be another deposit site, and there again it was the same frustrating story.”*

### **Reprieve**

The trial was postponed again, this time to October 15, but the searchers knew that, due to sabotage, they had insufficient film evidence to buttress the counts of the indictment.

*“Through Rode’s knowledge of Nazi film details, we began to make progress in other directions. Learning that the negatives of all German newsreels were stored at the Reich Film Archive at Babelsberg, I went to the*

Soviet officer in charge, Major [Georgii Alexandrovich] Avenarius,<sup>9</sup> explained my mission, and asked for permission to make prints of the entire Nazi period from those in his possession.

*“Avenarius, a tall, thin, ascetic-looking intellectual, studied me a little suspiciously, I thought. ‘What is an American naval officer doing looking for films in Germany?’ he asked. ‘Well, it’s a little hard to explain,’ I said, ‘but I belong to a Photographic Naval Unit headed by Captain John Ford which has been put in charge of photographic evidence for the Nuremberg trial.’*

*“[John Ford, the director? Avenarius said. He pronounced it as one word, ‘Djonford.’ ‘Yes,’ I said. ‘You’ve heard of him?’ ‘In my book on the history of motion pictures,’ Avenarius said, ‘I gave Ford two chapters. The Iron Horse is still one of my favorite pictures.’”*

After spending the morning talking movies, Major Avenarius escorted Budd to the Berlin suburb of Babelsberg, site of the Universum Film AG film studio, where *The Blue Angel (Der blaue Engel)*, and many other memorable German movies had been filmed before the war. As they began to cart away all this material, Major Avenarius became nervous and halted the process. He wanted to get the permission of his colonel.

### ***A River of Vodka***

Budd and his colleagues decided to wage a full-scale assault on this colonel, and contrived to drown him in a “river of vodka.”

*“We arose about one o’clock in the morning, with the colonel finishing the last of our Bordeaux but promising to send us a case of his own Caucasian wine in the morning. Then we staggered over to the other house to run the July 20 film, which the Soviet officers had never seen and a print of which they were eager to obtain. The five-reel film was run one reel at a time, with ten-minute intermissions for refreshments. At three o’clock in the morning, the colonel, who everyone said was a member of the dreaded NKVD, was dancing in the street with one of our WAC interpreters. ‘We must work closer together,’ he said happily as he and his staff drove off just as the sun was coming up over Wannsee, the ‘Bel Air’<sup>9</sup> of Berlin. The next afternoon we drove back to Babelsberg, accompanied by a truck. When we left that evening, the truck was full. Our toasts, thrown upon that river of vodka, had brought astonishing results.*

*“Among the films we obtained that day was every single Party Day Congress from the very first one in 1923, in which Himmler and Hess appear with Hitler in short Bavarian pants looking like Hitler Jugend. There was also a Party film on the 1932 election<sup>10</sup>, showing how the Nazis managed to control it, even if they were not yet in power, with SA<sup>11</sup> men patrolling the streets and an SA machine-gun unit lined up menacingly outside an anti-Hitler trade-union headquarters.*

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<sup>9</sup> Georgii Aleksandrovich Avenarius (1903 – 1958), a pre-war Soviet film scholar, was secretary of the commission responsible for foreign films taken as “trophies” from Poland and Romania in 1939 – 1940; Sergei Eisenstein was the commission’s chairman. In October 1948, Avenarius became a senior researcher at Gosfilmofond where he continued his work on the “trophy” films. Source: Author’s correspondence with Russian film scholar Sergei Kapterev, Senior Researcher at the Institute for Cinema Art in Moscow.

<sup>10</sup> The presidential election of 1932 was the last one in which President Paul von Hindenberg was directly and popularly elected. He appointed Adolf Hitler Chancellor one year later, and, upon von Hindenberg’s death in 1934, Hitler abolished the office of President.

<sup>11</sup> The SA, short for *Sturmabteilung* (Storm Troopers or Brownshirts) was Hitler’s paramilitary force.

*“Another valuable document, marked Geheim – Oberkommando (Secret, by order of the High Command), was a horrifying two-reel film depicting the rounding up of the Jews in the Warsaw ghetto and their inevitable burial in mass graves. German thoroughness is seen in its most frightening aspect in one shot in which a uniformed Wehrmacht cameraman can be seen at the bottom of a mass grave getting a reverse shot as naked, emaciated bodies, including those of women, small children, and infants, come hurtling toward him.*

*“In Munich, my brother Stuart uncovered not only the entire Heinrich Hoffman film library, but also Hitler’s old friend Hoffmann himself. Like all the other Germans we encountered, Hoffmann was perfectly willing to lend his services to the Allied cause, even though in this case he was helping us tighten the noose around the neck of his own son-in-law, Baldur von Schirach, the Nazi Youth leader, one of the twenty-one major defendants. Hoffmann’s excellent library, his cooperation, and Sgt. Schulberg’s diligence produced one of the major contributions to photographic evidence at Nuremberg.*

Stuart shipped the 12,000 stills from Hoffmann’s archive back to his Wiesbaden base for sorting and analysis. From that point forward, he became the primary authority for the still-photo pictorial evidence.

### ***Arresting Leni Riefenstahl***

On September 24, Stuart Schulberg moved operations to Nuremberg, and, from then on, the Schulberg brothers and their colleagues would work hand-in-hand with the prosecution teams. They already had German film editors Walter Rode and Kurt von Molo in their custody, and had secured the cooperation of Hitler’s photographer Heinrich Hoffmann; but about this time Budd went after another prized informant - Leni Riefenstahl, director of *Triumph des Willens (Triumph of the Will)*.

*“I tracked down Ms. Riefenstahl at her retreat in Kitzbühl. I had a subpoena from the Nuremberg trial commission authorizing me to bring her to Nuremberg. Of course she professed her innocence, protesting that she was never ‘political,’ simply a pure, artistic documentary filmmaker. When she had visited Hollywood in 1938, she boasted, Hollywood had rolled out the red carpet for her. The subpoena was burning a hole in my pocket while I decided to hear her out. When I finally produced the subpoena and told her it was my duty to bring her to Nuremberg, she panicked and screamed, “Putzie, Putzie, he’s arresting me!” A little man, who turned out to be her husband [Peter Jacob], came running.*

*“I tried to reassure her that she was not on trial herself (that would come later) but would only be held as a material witness. But she was hardly reassured. Nor was her spirit lifted when she saw how this spoiled icon of German cinema was to be taken to Nuremberg: not in the limo she was accustomed to, but in the only vehicle available to me, an open US Army weapons carrier. What an improbable couple we were as an army corporal drove us to Nuremberg. There I installed her in the unimposing local hotel where the German trial personnel were held, and there she stayed for over three months and would be held for a longer period the following year...”*

*“Despite her protest and her self-righteous denials, Ms. Riefenstahl finally settled down to cooperate with us, sitting at the Moviola with Bob Parrish and other Hollywood film editors on our staff in incongruous sailor suits as they ran the *Triumph of The Will*, her Olympic film, and other of her documentaries for her to identify specific Nazi-tainted personalities.”*

## ***The Ley Suicide***

Death haunted the streets of Nuremberg and permeated the dark air of the prison and of the courthouse. On October 25, Colonel Burt Andrus, who was in charge of prison security, lost one of the major defendants to suicide. The defendants' cells offered one tiny corner of privacy. When a prisoner sat on the toilet, the guard could see only his feet through the slot in the cell door. Robert Ley, who was accused under Counts 1, 3, and 4 of the indictment, managed to hang himself by tying a braided towel to the pipe above the toilet. Seated on the toilet, he leaned forward until he choked to death. Col. Andrus immediately ordered the jailers to keep their eyes on the prisoners at all times.

The Ley suicide profoundly challenged the prosecutors, the guards, and the psychiatric counselors, whose job was to keep the prisoners alive long enough to kill them, legally. Maintaining their mental "well-being" and ascertaining their sanity and fitness to stand trial was their main preoccupation.

## ***Hess Amnesia***

After the Ley suicide, Rudolf Hess was their biggest problem. He had been claiming amnesia since his capture in England, and no one could figure out if it was real or faked. As Stuart reported, they decided to use film to figure this out:

*"A big event yesterday. Hess was brought to our projection room to see himself and the other top Nazis rant and roar in Triumph of the Will, the Leni Riefenstahl film on the 1934 Nürnberg Party Congress. Col. Amen, chief prosecutor here, and the psychiatrists who are working with Hess, hoped he would give himself away under the shock of seeing himself in action. They hoped he would give some clue that his amnesia is a fraud by which he hopes to escape any punishment. The experiment was a failure. Hess performed brilliantly – if he is faking – and gave a perfect imitation of a man who has lost his memory."<sup>12</sup>*

In a stunning reversal twenty days later, Hess acknowledged that he had been faking his amnesia, and that he was competent to stand trial. His transformation occurred on the evening of November 29, following the screening of *Nazi Concentration Camps*.<sup>13</sup>

## ***A Picture is Worth 1,000 Words***

The trial was finally set to open on November 20, 1945, and the film unit was running to keep up with the demand for evidentiary material. Their work was finally being acknowledged:

*"We have become the belles of the courthouse. It looks now as tho [sic] the trials will open with one of our pictures, and that more film will be used later in the summation...We have succeeded in making stuffy attorneys picture-conscious. At first we had to almost sell our pictures... now the attorneys are calling us...Jackson called to thank and congratulate us on our work. 'A picture is worth 1000 words,' he cracked."<sup>14</sup>*

Budd and his crew of film editors worked day and night to edit the moving pictures that Jackson and his assistant trial counsel James B. Donovan (no relation to Gen. Bill Donovan) intended to present. Only the trial's numerous postponements had enabled them to locate and compile sufficient pictorial evidence. In

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<sup>12</sup> Stuart Schulberg letter to Barbara Schulberg, November 9, 1945, Schulberg Family Archive.

<sup>13</sup> Joseph Persico, *Nuremberg: Infamy on Trial*, 1994.

<sup>14</sup> Stuart Schulberg letter to Barbara Schulberg, November 9, 1945, Schulberg Family Archive.



the end, they assembled two films. *Nazi Concentration Camps* was composed of film shot by British and US soldiers when they liberated the labor and death camps. Jackson chose to shake up the courtroom by screening *Nazi Concentration Camps* on November 29, nine days into the trial.

The other film had been much more difficult to structure, for it had to document the entire history of Hitler's National Socialism, and it had to be composed entirely of Nazi motion pictures. The twenty-two 35mm reels of *The Nazi Plan* were presented in two parts on the morning and afternoon of December 11. To make the film intelligible to the non-German speakers in the courtroom, Budd created inter-titles to identify the various sequences.

The simply titled *Nazi Concentration Camps* is less than 60 minutes long. Today, the images of the defendants watching this atrocity film are famous. In an article he wrote in 1947, Stuart Schulberg described his lighting of the prisoners' dock:

*"The night before the showing [of the atrocity film], it occurred to us in the Documentary Evidence Section that, with the lights off, it would be impossible to watch the defendants' reactions to this evidence. We realized we were to be robbed of the most interesting and even valuable (though that may have been rationalizing) experience. We decided on the spot to run a neon tubing just beneath the top of the dock fence. This would throw a soft light onto the defendants' faces without affecting the screen. A grouchy crew of Army engineers was roused and set to work. By midnight the tubing was installed.*

*"But the next morning early, during a dry run, we discovered that the neon was throwing too much light and turning the image milky on the screen. A roll of brown mending tape was found and, a little frantically, we began to stretch it along the tubing. By this time it was after nine and court opened at ten sharp. What we had forgotten was that the defendants were led into the dock, by twos, from 9 o'clock on. Thus as I was nervously securing tape to neon tubing, Goering and Hess were led in through the back door. Crouched over to attach the tubing from beneath, I blocked Goering's route.*

*"An enlisted man of some years, my first impulse was to come to attention at the sight of so much expensive fabric. Goering, though stripped of his hardware, was still wearing his sky-blue Luftwaffe uniform, replete with high black boots. But I recovered nicely and stayed on the job down there at boot level. Goering looked at the tubing a moment and pursed his lips. Then he looked down at me and said, 'Kinema, nein?'*

*Hess, who was still feigning insanity at the time, went into his act. 'Ach! Kinema, Kinema,' he said, clapping his hands together. His body bobbed a few times like an excited child's: 'Ach! Kinema.' Goering shrugged his shoulders at me in a manner that his co-defendant Streicher would have called 'most non-Aryan.' Then he smiled a big smile while Hess beamed and clapped his hands together. Half an hour later, those smiles were wiped off their faces..."<sup>15</sup>*

### ***A Film About the Trial***

Chief U.S. Prosecutor Robert Jackson wanted to show films in the courtroom, and he also agreed that the courtroom proceedings be filmed. The Nuremberg Palace of Justice was thus reconfigured by Army architect Dan Kiley for the specific purpose of showing films in the courtroom and filming the

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<sup>15</sup> Stuart Schulberg, "An Eyewitness Reports," *Hollywood Quarterly*, Vol. 2, No. 4 (1947). In this piece, Stuart Schulberg describes his actions on the morning of November 29, 1945, in the Nuremberg courtroom. Copy in Schulberg Family Archive.

proceedings themselves. But, for reasons that we are still trying to document, U.S. Army Signal Corps cameramen shot under 50 hours of film over the course of the ten-month trial. The paucity of film footage would later prove one of the great obstacles to making *Nuremberg: Its Lesson for Today*.

But the greater obstacles were political. During 1946, the four allied powers that had conducted the trial – namely the US, Great Britain, France, and the Soviet Union – had agreed that the official film should be a 4-power production. Its purpose would be to demonstrate the essential fairness of the Nuremberg trial, and to show the German people what atrocities their Nazi leaders had committed. Through their Allied Kommandatura (a military control organization they founded in July 1945), the Allies were jointly occupying Berlin and the rest of Germany, although they were administering it through four distinct military zones.

In September 1946, for the purpose of producing the Nuremberg film, the Allies formed the DFWP (Documentary Film Working Party), consisting of a delegate from each of the prosecuting nations. By September 18, 1946, each power agreed to submit its proposals for writer and editor and to prepare relevant footage in each country's possession. After the meeting, Brigadier General Robert A. McClure (director of U.S. Military Government's Information Control Division) cabled Washington:

*"Invitation extended other occupying powers participate in Nuremberg documentary to assure availability all material and nationwide distribution. Other powers anxious to participate. Strongly urge such joint production and feel that judgment of German reactions can best be made here. Time element important. Would be very disappointed stateside no concurrence. In this first and most important quadripartite project."<sup>16</sup>*

The Soviet delegate was Col. Sergei Tulpanov, chief of their propaganda division,<sup>17</sup> the man bruited to be General Sokolovsky's puppet master.<sup>18</sup> France chose Beguin Billecocq, chief of her military film section,<sup>19</sup> and Great Britain chose Henry Durban. McClure named Colonel William Ullman as the U.S. delegate, who shared responsibility with associate Eric Clarke.<sup>20</sup> Ullman and Clarke planned to have the film ready shortly after the conclusion of the trial. Their calculations were off by 18 months.

### ***Berlin vs. Washington -- A Film for Germany or for Posterity?***

Even before there was a chance for any dispute to arise among the four national delegates to the DFWP, a vicious battle for control of the film broke out between two U.S. government factions. Arguing that the documentary's first use would be as part of the OMGUS (Office of Military Government/U.S.) denazification/re-education campaign in Germany, McClure and his Berlin film officers insisted that they knew how best to structure the film.

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<sup>16</sup> OMGUS cable from Robert McClure to US War Department, September 18, 1946, Schulberg Family Archive.

<sup>17</sup> Major General Sergei Ivanovic Tulpanov (1901-1987) – referred to as Colonel Tulpanov in all the Schulberg documents -- was the director of the Propaganda Administration of the Soviet Military Administration in Germany, from 1945-1949. According to Wikipedia, Tulpanov considered himself a hard-line Bolshevik, but was recalled from his post to Moscow in 1949, after several members of this family and friends had been convicted of espionage. Source: Wikipedia

<sup>18</sup> General Vasily Sokolovsky, a Soviet war hero and commander of the Eastern Front, was commander in chief of the Soviet forces in what became East Germany, and the officer who initiated the Berlin Blockade.

<sup>19</sup> V. Beguin Billecocq's formal title was Chef de la Section des Services Cinematographiques, Division Information, Groupe Francaise du Conseil de Controle, Commandement en Chef Francais en Allemagne.

<sup>20</sup> Lt. Colonel William A. Ullman was chief of the Documentary Film Section for ICD (Information Control Division), and Eric T. Clarke was head of the Film/Theatre/Film Section of US Military Government in Berlin.

But the man in charge of Film/Theatre/Music at the War Department's Civil Affairs Division in the U.S. was none other than "FDR's filmmaker," Pare Lorentz. Lorentz was famous for having created and distributed *The Plow That Broke The Plains* and *The River* – films that had defined a whole new genre of non-fiction moviemaking. He had been promoted to the rank of Colonel during his wartime service in the Air Force.

It is doubtful that Lorentz, the award-winning filmmaker, had any intention of letting the OMGUS staff make the Nuremberg film on their own. In any case, after he received their first proposed script in November 1946, he never trusted them again. Pare Lorentz had a much broader vision for the Nuremberg trial film than the OMGUS officers. He felt it should be a film for the ages, a film that would bring the lessons of the trial to the entire world. He did not see it as a film only, or even primarily, for German audiences. He was also determined that the film accurately reflect not only Justice Jackson's case against the Nazis, but also Jackson's larger intent that the trial serve as an international beacon of justice. With the trial over and Jackson back at the Supreme Court, Lorentz was better positioned geographically – not to mention, artistically – to shape the film from a universal perspective, in close collaboration with Jackson.

The Washington response to McClure's cable was lightning-quick:

*"Completely approve quadripartite aspect of project and you are to be congratulated on progress. However both War and State must insist on political grounds that script be approved here. We are prepared to clear it quickly and will furnish you all the technical help available stateside."*<sup>21</sup>

### ***Battle Lines Are Drawn...***

The top officials at the U.S. Departments of War and State in Washington had no intention of allowing OMGUS final approval over the content of the film. And the technical help offered from stateside would be far more than technical. Pare Lorentz intended to exercise artistic control of the entire project.

Lorentz reported to Generals Oliver Echols and Daniel Noce, with Lt. Col. R.B. McRae acting as go-between. Echols, who had served with distinction during the war, was Civil Affairs Division director for the War Department in Washington.<sup>22</sup> Daniel Noce, chief of Civil Affairs for all the occupied territories, was known as a tough taskmaster.<sup>23</sup> Both Echols and Noce were close to the center of power, reporting to Assistant Secretary of War Howard C. Petersen.

Although General McClure and his men Ullman and Clarke may have been technically subordinate to Echols and Noce, the Berlin officers reported to General Lucius Clay, the extremely powerful and respected U.S. Military Governor in Berlin. A mighty battle for control of the production was about to begin.

The initial standoff between McClure and McRae was emblematic of a pattern that would repeat itself. The two factions – the War Department in Washington and Military Government in Berlin – would claim

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<sup>21</sup> Telecon from Colonel McRae to General McClure, September 18, 1946, Schulberg Family Archive.

<sup>22</sup> As a top Air Force procurement officer during the war, Major General Oliver P. Echols had been key to getting 230,000 planes built and delivered in record time. In the immediate postwar, he served as chief of Internal Affairs of the U.S. Control Council in Germany, then Assistant Deputy Military Governor for Germany, then director of CAD (Civil Affairs Division) for the War Department in Washington. In 1949, by then a civilian, he became chairman of Northrup Corporation, one of America's largest aircraft manufacturers.

<sup>23</sup> Major General Daniel Noce was the War Department's chief of Civil Affairs for all the occupied territories: Germany, Austria, Japan and Korea.

to co-operate, all the while ignoring the other's pleas and admonishments. The OMGUS film officers stole the march. On October 5, 1946, Clarke and Ullman, without informing Lorentz, hired journalist John Scott to create a detailed film treatment, which Scott completed on October 28. Scott, an American and former Berlin bureau chief for Time and Life magazines, had covered the trial, and was a logical choice.

Pare Lorentz had originally approached Budd Schulberg about taking the job of scriptwriter. But, having completed his Nuremberg assignment at the end of 1945, Budd was busy writing a new novel, *The Harder They Fall*. He recommended his friend Ian Hunter. Hunter was either not available, or not approved.<sup>24</sup> Lorentz again tried to persuade Budd Schulberg to undertake the task, at which point Budd recommended his brother, Stuart.

The two men clicked. The records indicate that Stuart Schulberg was officially engaged by the War Department's Signal Corps Photo Center in Long Island City, New York, in December 1946 to work on *Production No. 10 - NUREMBURG [sic] TRIALS*.<sup>25</sup> He had been working informally for Lorentz since sometime in November, as evidenced by the fact that, on November 15, OMGUS approved Lorentz's recommendation that Stuart Schulberg be hired. Officials there urged that Schulberg be sent to Berlin as soon as possible.

The very same day, however, the Berlin film officers engaged Michael Gordon, ostensibly as a cutter. Gordon, a British film writer, would soon be commissioned by OMGUS to write a new *Nuremberg* script.

### ***...and Old Battle Lines Re-Emerge***

Justice Robert Jackson and OSS chief General William Donovan had dueled over how to prosecute the Nuremberg defendants. Jackson insisted on trying the case based on documentary evidence, distrusting the testimony of witnesses. Donovan, however, thought that the documentary approach would stultify the courtroom and alienate the world press. Live witnesses, he felt, would galvanize the sympathy of journalists and the public, and make for a far more dramatic trial. Jackson managed to sideline Donovan, and his document-heavy strategy prevailed. Donovan left Nuremberg shortly before the start of the trial.

As Donovan had predicted, the trial dragged on for ten months, and, at times, newspaper and newsreel coverage dwindled to a trickle, only picking up when there was a sudden jolt – such as the Goering testimony – and at the end, when the verdicts were finally rendered. Donovan's fears about a boring trial would soon be advanced by the film officers on Gen. Clay's staff in Berlin, who argued that a film that simply followed the structure of the trial would be boring.

Stuart Schulberg's first assignment was to provide Pare Lorentz with a critique of the OMGUS script written by John Scott. Based on Schulberg's analysis, Lorentz excoriated the OMGUS approach, writing to his superiors:

*"The Nuremburg [sic] trials treatment as prepared by John Scott is neither a factual document nor a motion picture outline...In brief, the narration does not represent a careful study of the trials testimony, or of the*

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<sup>24</sup> Although the Communist Party was not outlawed in the United States until 1954, by March 1947 President Truman was bowing to right-wing pressure and circulating a Loyalty Oath to be signed by members of his administration. Background checks were done on certain people who were suspected members of the American Communist Party, which Ian Hunter was.

<sup>25</sup> Stuart Schulberg's employment contract is included in the Schulberg Family Archive.

*opinions, and the scenes indicated do not represent a careful selection of existing War Department documentary movies.*<sup>26</sup>

Schulberg provided Lorentz with another crucial document – his own script outline, entitled *Proposed New Structure for Nuremberg Trials Film*. He took an entirely different approach, organizing his treatment around the four counts of indictment and emphasizing how each of the prosecutorial teams – the U.S. Soviet Union, Great Britain, and France – had built its case against the defendants.

With Schulberg’s script outline as ammunition, Lorentz went on the offensive. His strategy was to get senior officials at the U.S. Departments of State and War to wage the battle with OMGUS. He contrived to have a note sent to Assistant Secretary of War Howard Petersen, asking that he send a letter to General Clay.

Petersen complied, and wrote a personal letter to General Clay. It was dated Jan 11, 1947 and bore the salutation “Dear Lucius.” In it, he asked Clay to consider “a suggested new outline and treatment for the proposed Nuremberg trial film.” Saying that the Scott treatment was deemed “unsatisfactory,” he reiterated the mission of the film and the War Department’s view that it was not to be aimed only at German audiences:

*“I am aware of the fact that it is important to complete this film as quickly as possible, however, it is also important to consider the grave nature of this production. Never before in the history of man has a gang of conspirators so carefully documented their own acts of treachery and violence. It is important not only to make this factual record plain to the German people, it is imperative that this evidence be preserved for all time for the archives of the Allied nations. Furthermore, the testimony and evidence presented at the trials also deserve careful study and selection so that the Germans may have on the record the final statements of their own leaders as to their admitted criminal intent and action.”*<sup>27</sup>

Lorentz thought that his job was to combat the Scott script proposal. He did not yet realize that OMGUS had come to the conclusion that they would never prevail over Lorentz if they pressed for the Scott treatment. Unbeknownst to Lorentz, they had engaged British editor Michael Gordon to start over.

### ***OMGUS Pushes Ahead***

On January 10, 1947, Michael Gordon completed his script, which the OMGUS team approved. It was hand-carried to Washington by a special courier on January 17, and crossed with Schulberg’s script.

The stage was set for another duel. Whereas both sides had disavowed the Scott treatment, the OMGUS team girded for a sustained campaign against the Schulberg script and in defense of the Gordon script.

On behalf of OMGUS, Ullman formulated the critique of the Schulberg treatment. Its main faults were said to be that it lacked drama, and that it was predominantly an American approach. The OMGUS officials would repeatedly make these two charges over the coming months. But in the meantime, Clay responded diplomatically to Petersen, saying that his staff had come to the same conclusion – namely that the Scott script was inappropriate – and that his team was studying the Schulberg script.

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<sup>26</sup> Memo to Col. R.B. McRae from Pare Lorentz, December 5, 1946, Schulberg Family Archive.

<sup>27</sup> Letter from Assistant Secretary of State Howard Peterson to General Lucius Clay, January 11, 1947, Schulberg Family Archive.

Clay and his film officers took the position that only they were in a position to judge what would work in the field. Whether they truly believed this assertion, or whether it was simply a rationale for retaining control, is a matter for speculation. In any case, Washington officials continued to view the film as more than just a tool for re-educating the Germans; they wanted to make a film for posterity. Given that the Schulberg script followed the structure of the trial, the charge of U.S. bias rang hollow to Lorentz. But it was now apparent from Clay's response that OMGUS was not going to let go. Lorentz may have misjudged Clarke's and Ullman's tenacity at the outset, but that only made him more determined to outwit them.

### ***Jackson as Referee***

Lorentz decided that Justice Jackson was the only person with enough stature to rebut the OMGUS charge. He cleverly prepared his appeal to Jackson by cultivating Captain Adrian ("Butch") Fisher, former assistant to Nuremberg Judge Francis Biddle, and now an attorney at the Commerce Department.<sup>28</sup> He used Fisher as a stalking horse, to ensure that the Schulberg script passed muster from an evidentiary point of view, and as an accurate portrayal of the trial. At the end of January, Lorentz sent the Schulberg script (now in 3rd draft, dated January 8, 1947) to Justice Jackson. He was rewarded on February 7 with a remarkable letter of support from Jackson:

*"I have examined the scenario for the Nuremberg trials motion picture and must confess to you that it overcomes the doubts which I earlier entertained as to whether such a film would be advisable. The selection of material has been done with great intelligence and seems to avoid the vice of distortion of the subject matter so common in moving picture presentations. I am impressed that it carries with great fidelity the impression of the fairness, dignity and thoroughness of the trial, refutes any thought that the defendants did not have a complete opportunity to tell their stories, and shows that their stories, when told, convicted them."*<sup>29</sup>

Finally, Jackson raised an issue that had already bedeviled the writers and producers on both sides of the Atlantic – the question of how to limit the effect of Nazi propaganda. As Jackson put it:

*"The other matter [that] needs great care in handling is the use of the evidentiary film NAZI RISE TO POWER [aka The Nazi Plan]. I think your plan will overcome the difficulties about this but the exhibition of that film has its dangers. Unless the audience is informed as to the falsity of the claims made in the propaganda films, the films really are what they were intended to be – good propaganda for Hitler. When I was on the other side I was enthusiastic about showing these films to Americans because in the courtroom they had seen an impressive expose of the Nazi methods. But I overlooked the fact, and found that others had also, that the courtroom audience was prepared by a background of information to judge these films. When they came to be shown to an American audience which had not this background, they were just naked propaganda and dangerous propaganda at that. I think that film should never be shown, but excerpts from it treated in the way you propose would doubtless be very effective."*

Armed with this letter, Lorentz would push relentlessly and artfully to insure that the final film was based on the Schulberg script.

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<sup>28</sup> Adrian Fisher would later serve as Solicitor General of the United States.

<sup>29</sup> Letter from Justice Robert H. Jackson to Pare Lorentz, dated February 7, 1947, Schulberg Family Archive.

Despite the fact that Jackson had thrown his weight behind the Schulberg script, Clarke and Ullman continued to resist. First, they appealed to their own legal eagle. The director of the OMGUS legal division, Alvin Rockwell, provided a memo to Ullman dated February 19, 1947, which proves the adage that everyone wants to be a filmmaker. Rockwell stated he would make only general comments because the two scripts were so different that “it seems fundamental that the method to be used should first be decided.” He then proceeded to outline the film he would make, taking his favorite elements from each script and combining them into one.

A couple of days later, on February 21, Clarke cabled Lorentz to say that various officials had commented on the Schulberg script which they deemed “undramatic” and not sufficiently “quadripartite,” charges they would repeat over and over.

### ***In the Dark***

How aware was Stuart Schulberg of the transatlantic machinations and struggle for control of the film? As far as he knew, the original OMGUS treatment by John Scott, which he critiqued, had been rejected, and he had been hired instead.

The first draft of Schulberg’s *Nuremberg* script is dated December 20, 1946, and adheres closely to his initial November 30 outline. The second draft is dated December 30. The third Schulberg script, dated January 8, 1947, was approved by Lorentz on January 10 and sent to Justice Jackson on January 29, 1947.<sup>30</sup>

By this time, Schulberg had been authorized to hire film editor Joseph Zigman, another alumnus of the Field Photo War Crimes unit. Stuart’s old friend “Ziggy” was a veteran of the Wannsee, Wiesbaden, and Nuremberg editing rooms. February 1947 found them busily screening thousands of feet of film in Astoria, Queens, with Schulberg revising the script based on the available footage. They were already constructing the film. In a memo to Lorentz dated February 26, 1947, Schulberg reported that they had screened 400,000 feet, and selected 47,383 feet for duplication.

But in the middle of this work, Schulberg was asked to review the Gordon script, so he was suddenly made aware of the parallel effort in Berlin. Lorentz abhorred the Gordon script, especially its proposed use of the July 20 trial footage.<sup>31</sup> By this time he didn’t trust the OMGUS men’s judgment on any matter, whether intellectual, artistic or political. He had to mount an attack on the Gordon script while generating support for the Schulberg script. He assigned Schulberg the task of analyzing the competing script, and Stuart responded with another thoughtful critique, but this time he was far more positive than he had been about Scott’s version, conceding several valid points in Gordon’s approach.

### ***The Elephant in the Room***

The “elephant in the room” was how sensational the film would be. The code word used was “drama.” The OMGUS team, led by Clarke and Ullman, sought myriad ways to infuse the film with drama, methods

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<sup>30</sup> There are eleven versions of the Schulberg script for the Nuremberg film in the Schulberg Family Archive. The text of the cover page for each of these scripts, including its date, can be found on the Nuremberg film website at [www.nurembergfilm.org/script\\_inventory.shtml](http://www.nurembergfilm.org/script_inventory.shtml).

<sup>31</sup> As president of the People’s Court (Volksgerichtshof), the notorious Nazi judge Roland Freisler presided over the trials of those arrested in the July 20, 1994, plot to kill Adolf Hitler. Certain parts of the proceedings were filmed, with Freisler screaming at the defendants and preventing them from answering his own questions.

considered artificial by Lorentz and Schulberg, who were primarily concerned with using film to re-enact the trial.

The “dramatic” elements pushed by OMGUS, as summarized in the Schulberg critique, included:

- The brutal July 20 trial of those who attempted to assassinate Hitler, which OMGUS would like to use as a counterpoint to the Nuremberg trial
- A greater emphasis on testimony from holocaust survivors
- Use of as much sync sound from the trial as possible
- More footage of Nazi concentration camps.

Distorting the basic structure of the trial was anathema to Lorentz and Schulberg, so they viewed the notion of using footage from the July 20 trial as a red herring. Their overriding concern had to do with the notion of evidence.

It had become apparent to Lorentz and Schulberg that, as early as the autumn of 1946, the OMGUS team did not seem to grasp the underlying issue of how the prosecution had waged its case against the Nazis. Once Schulberg handed Lorentz the key to the making of the film – his original November 30 script outline – they became united in their determination to make a film that served the same role as the trial itself. Their intent was to present the evidence, give the defense a chance to respond, and show that the defendants were convicted based on that evidence.

This principle imposed its own discipline on the selection of material, all of which had to meet the test of relevance. Lorentz and Schulberg could not accept what they viewed as the more ad hoc, emotional, and impressionistic scripts proposed by OMGUS. Lorentz and Schulberg intended to structure the film according to the architecture of the trial, whether the film was aimed at German audiences or the world audience. As a result, they could only be impatient with the OMGUS view that Schulberg’s script was particularly “pro-American.” In their view, it simply weighed the evidence for and against the four counts as presented by the four Allied prosecution teams.

But Clarke and Ullman remained invested in the notion that a “truly quadripartite” film could be constructed only in Berlin, and hung onto this plank until the end. They also argued that their approach was superior because it relied on sync sound testimony, and that this was essential if the German audiences were to accept the authenticity of the testimony. Whereas both sides agreed on the value of using synchronized sound wherever possible, Lorentz and Schulberg pointed out that, since the trial was conducted in four languages, it was impossible to produce a German-language version of the film that did not involve voice-over narration. (Subtitling was not considered a viable option). Coupled with the fact that cameras did not cover all the participants at all times, they, as filmmakers, were aware that sync sound was not available to match key evidentiary points. The OMGUS officers were apparently naive on this issue, or they chose to ignore it.<sup>32</sup>

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<sup>32</sup> The paucity of trial footage would also prove a great impediment to the 2009 restoration team, who struggled to create a new soundtrack in which the English, German, Russian and French voices could be heard.



## ***Lorentz On the Attack***

Lorentz used Schulberg's critique as the basis for a blistering 10-page memo to Clarke dated February 27, 1947.<sup>33</sup> Preferring generally to operate behind the scenes, Lorentz, for the first time, acted overtly. He confronted Clarke head-on, beginning with the following blunt statement:

*"In structure Gordon manuscript is not a motion picture but a collection of dialogue."*

Lorentz, the diplomat, had given way to Lorentz the pugilist. He was pulling no punches. His tone was patronizing, insulting. After criticizing the Gordon script, he proceeded to refute, point-by-point, Clarke's criticisms of the Schulberg script, trying to get him to understand the importance of building an airtight case using documentary evidence. He barely veiled his sarcasm, as when he suggested that Clarke et al did not even know how to read a documentary film script. Lorentz also sent a cable to General McClure saying:

*"Do not consider Michael Gordon script first class motion picture outline or sound legal document. Script has some exciting material which can be incorporated into combined script. Now have 32,000 feet of film which is being integrated. Includes shots of burning of Lidice and other material which no one knew was in existence. Believe you will be enthusiastic..."*

Lorentz believed he had killed the Gordon script once and for all.

## ***The Russian Card***

At a meeting of the Political Directorate of the Allied Control Authority in Berlin, which General McClure attended, the Soviets made note that *"parts of the [Gordon] scenario are considered unfriendly and harmful to the USSR..."*<sup>34</sup>

With the Gordon script under attack from two sides, McClure announced that he was prepared to withdraw the scheme from the quadripartite level. The next morning, Clarke's secretary wrote Clarke a note saying, *"General McClure has decided to drop the whole business about the NT Doc..."*<sup>35</sup>

But trying to turn the film project into a solely U.S. initiative did not quell the Soviet objections. Within three days, Soviet propaganda chief Tulpanov followed up with a formal letter of protest of the Gordon treatment. The Russians, who had lost millions of citizens, never felt that sufficient attention was paid during the trial to their suffering, and they were opposed to the acquittal of any of the Nuremberg defendants. They thought that the film about the trial could, and should, rectify some of this injustice.

Tulpanov's point of view – that the film need not precisely echo the trial – was shared by OMGUS. While OMGUS was contending that its approach to the film would guarantee quadripartite support, it was blindsided by the negative response from the Soviet delegate to the DFWP.

In his March 6 response to Tulpanov, McClure used Tulpanov's complaint as an argument for procuring film material that was in Soviet hands. McClure says in his letter that OMGUS already had a rough-cut version of a film (based on the Gordon script), *"nearly ready,"* and *"it is our intention to present it to you*

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<sup>33</sup> Telecon to Gen. McClure from Pare Lorentz, February 18, 1947, Schulberg Family Archive.

<sup>34</sup> Excerpt of the Sixteenth Meeting Report of the Allied Control Authority, Political Director, Information Committee, February 28, 1947, Schulberg Family Archive.

<sup>35</sup> Typed note to Eric Clarke from the desk of Gen. McClure, February 18, 1947, Schulberg Family Archive.

*and your staff for comment, with the hope that all divergent views may be reconciled in a single film appropriate for Germans in all four zones.*<sup>36</sup>

While negotiating with Lorentz and the War Department in Washington about the shape and content of the final script, OMGUS had apparently proceeded with the production of its own film, in defiance of both the DFWP and Washington.

The Russians were not mollified by McClure's proposal that they belatedly contribute footage and participate in the editing of the film. McClure would hope in vain that all divergent views might be reconciled in a single film appropriate for Germans in all four zones.

The Russians would soon go their own way, and do so in a very public fashion.

### ***The Undead Script***

In response to Lorentz's aggressive letter of February 27, Clarke and Ullman drafted three angry cables on March 4, 6, and 8, which they prodded Clay to send to Lorentz. Instead, a more measured, but still emotional, cable was addressed to the War Department on March 15.<sup>37</sup> It did not go out under Clay's signature. The cable employed quite a mix of tactics: it chided, pleaded, solicited, asserted.

But in the end, Clarke et al refused to cede to Lorentz, though they agreed to incorporate certain elements of the Schulberg script, and to employ Schulberg or any other personnel that Lorentz might send to Berlin, as long as production was based on the Gordon script, which they agreed to revise. They asserted that the War Department had the authority to approve the "political" and "legal" aspects of the script, but not the artistic aspects. The same cable stated: *"Russians and French now holding up German release of their own pictures pending our screening of American film."*<sup>38</sup>

No matter how many times Lorentz stuck a knife into the heart of the Gordon script, it seemed to rise again. With OMGUS challenging Lorentz, he appealed once more to Justice Jackson, providing him with copies of both scripts. This may have been the first time in history, and perhaps the only time, that a justice of the Supreme Court was called upon to participate in the filmmaking process. Jackson obliged by writing a letter to Assistant Secretary of War Petersen that ended with these words:

*"The Schulberg script has, in my judgment, done a very successful job of integrating the whole case around the conspiracy charges and conveys forcefully the evil and criminal character of the Nazi movement. The Gordon script seems more scattered and repetitious and to be directed to particular individuals. While the Gordon script, like the Schulberg script, shows an immense amount of time and effort in preparation, I cannot but feel that the latter conveys the lesson and meaning of these trials with much more force and accuracy. I should be happy to see the Schulberg-Lorentz script adopted. Sincerely yours, /s/ROBERT H. JACKSON*<sup>39</sup>

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<sup>36</sup> Letter from Robert A. McClure, Brigadier General, Director of Information Control, to Colonel Sergei Tulpanov, March 6, 1947, Schulberg Family Archive.

<sup>37</sup> Memo from OMGUS Berlin, Germany, SG Keating, to War Department, Nr. V-15685, March 15, 1947, Schulberg Family Archive. The draft cables, with text crossed out by hand, are also in the Schulberg Family Archive.

<sup>38</sup> The fact that the Russians made their own film is known, but scholars have been unaware of any French film made about the trial. Yet, a U.S. State Department memo, by an anonymous author, from the latter half of 1948, states: 'the French produced a two-reel, inconsequential movie they exhibited not only in their zone in Germany but in their own country as well...' This is another aspect of the story that requires additional research.

<sup>39</sup> Letter from Justice Robert H. Jackson to Assistant Secretary of War Howard Petersen, March 28, 1947, Schulberg Family Archive.

## ***Lambs to Slaughter?***

While Lorentz was jousting with OMGUS, Schulberg and Zigman had been trying to keep their heads down so they could concentrate on production. But they were no fools, and by this time they were aware of the risks of moving forward with as yet no consensus on which movie was being made. They did not relish being caught in the middle, and, in a letter to Lorentz on March 31, requested a clear directive.

Lorentz was every bit as intent as Schulberg on getting a directive in favor of the Schulberg script, and his efforts resulted in a cable from the War Department to OMGUS:

*“Ref Nuremberg trials Scripts of Gordon and Schulberg. Both have been reviewed from the legal and political point of view. Decision of ASW [Assistant Secretary of War] was to leave matter entirely up to Justice Jackson. He has stated Schulberg Script much better and approved it. Does not approve Gordon Script. In view of unanimous opinion as to desirability of Schulberg Script, it is desired that the Schulberg Script be used to complete the film. Request you furnish APR I for 1,000 pounds of film selected to match Schulberg/Fisher/Jackson Script. Schulberg and Joe Zigman, cutter, are ready to depart.”<sup>40</sup>*

April 10, 1947, was a busy day. Travel orders were finally prepared for Schulberg and Zigman. Yet, the same day, Clarke sent a cable to McRae trying to get around Jackson’s arguments in favor of the Schulberg script. He pointed out that Jackson didn’t state that the Gordon script was “politically harmful.”

The fact that McClure and Clarke were still fighting for Gordon’s script and suggesting either two films or a way of combining both scripts, generated a no-nonsense phone call on April 18 from Colonel McRae, which was recorded as: *There should be no further consideration for use of the Gordon script.*<sup>41</sup>

## ***The Coup de Grace***

This seemed to be the coup de grace for the Gordon script – but it wasn’t.

That same day, Ullman made a last ditch plea to General McClure, restating that the film should be a quadripartite project under OMGUS control. Clarke’s and Ullman’s suggestion that two films might result shows just how far they were prepared to go in asserting what they perceived to be the OMGUS prerogative. Their intransigence raises provocative questions about the limits, if any, on the authority of the U.S. occupational government. To the extent that their position was backed by their OMGUS superiors – ultimately, General Clay – was Clay prepared to be insubordinate to the War Department? Or did he hold the view that his power as Military Governor was absolute within the territory?

On April 18, Assistant Secretary of War Petersen sent another “Dear Lucius” letter to General Clay, asking Clay to provide Schulberg will all due support.<sup>42</sup> Clay would now have to take a stand, one way or the other. Would he continue to provide cover for Clarke’s and Ullman’s ambitions, or would he defer to Petersen and Justice Jackson?

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<sup>40</sup> War Department telecon to OMGUS, April 8, 1947, Schulberg Family Archive.

<sup>41</sup> Telecon from Col. McRae to OMGUS, April 18, 1945, Schulberg Family Archive.

<sup>42</sup> Letter from Howard C. Petersen, Assistant Secretary of War, to General Lucius D. Clay, Military Governor, Office of Military Government for Germany (US), April 18, 1947, Schulberg Family Archive.

Petersen's letter is respectful, almost deferential. He addresses Clay as an equal, not a subordinate, and kindly requests his support, rather than demanding it. At the same time, he is extremely firm, and there is no doubt that he would like to have his wishes (essentially Justice Jackson's) carried out.

Schulberg hand-carried this letter to Berlin, where he arrived ten days later, and set to work under the auspices of the famous German movie producer Eric Pommer,<sup>43</sup> with whom he would have a positive working relationship and a lifelong friendship. Lorentz had finally achieved victory.

### ***Lorentz Resigns***

Lorentz's victory would prove bittersweet. His tenacity and vision had finally paid off. But the toll on him had been enormous. On May 17, he sent a cable to Schulberg in Germany announcing his resignation, effective June 1, 1947. It read:

*"Congratulations on your tenacity. For your information General Noce has cut the office practically to nothing. I have resigned effective June first. Tell General McClure I still want very much to stick with Nuremberg trial films even though I will not serve any longer under Noce."*<sup>44</sup>

Besides the personal tensions with Noce and talk of financial cutbacks, there were also political tensions. On March 21, 1947, Truman had issued the first Loyalty Oath, to be signed by members of the executive branch of government. Lorentz may not have been willing to sign such an oath.<sup>45</sup>

The last version of Schulberg's script to bear Lorentz's name is dated July 1, 1947. It was omitted from all subsequent drafts. But Pare Lorentz would re-appear on the scene as the Schulberg-Zigman production neared completion, and again once it became clear that the War Department did not plan to release it in the U.S.

### ***Scooped by the Russians!***

On the same day that Schulberg and Zigman finally got their orders to go to Berlin (April 10, 1947), McClure informed McRae that the Soviets had completed and were releasing their own Nuremberg film in Germany, *Sud Narodov*, or *Judgment of People*. This was highly embarrassing for the Americans, who had been behind the idea of mounting a 4-power film as a symbolic gesture of postwar Allied collaboration, albeit one that the Americans wanted to control from the outset. But McClure suggested that the Russian film might offer a handy rationale for delayed completion of the U.S. film. The Soviet film was, in McClure's words, as expected:

*"Almost entirely unilateral in its approach, and as a result of this situation a suggestion has been made that we retard the release date of our Nuremberg trial documentary film to coincide with the anniversary of the*

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<sup>43</sup> Eric Pommer was Motion Picture Control Officer for US Military Government from 1946 – 49. Before leaving Germany in 1933, Pommer (who then spelled his first name 'Erich') had produced or supervised such classic movies as *Das Cabinet des Dr. Caligari* (The Cabinet of Dr. Caligari) and *Der blaue Engel* (The Blue Angel).

<sup>44</sup> RCA Radiogram to Stuart Schulberg in Berlin from Pare Lorentz, July 9, 1947, Schulberg Family Archive. The troubles between Lorentz and Noce are only alluded to in the Schulberg papers, and this aspect of the story may be fleshed out through study of the Lorentz paper

<sup>45</sup> Since Lorentz resigned so soon after Truman's executive order, it is unlikely that he was asked to sign a Loyalty Oath. What can be gleaned from transcripts of later interviews with Lorentz is that he was uncomfortable with the whole notion. When it came to politics, he was a Roosevelt Democrat with no Communist sympathies, but he was opposed to the witch-hunts of American leftists. Wittingly or unwittingly, Lorentz had hired Leo Hurwitz, Ralph Steiner, and Paul Strand to film portions of his film, *The Plow That Broke the Plains*. All three were founder/members of the communist-inspired Film and Photo League, and in 1940s found themselves on right-wing watchdog lists. Budd Schulberg and Ian Hunter, his first two choices for the Nuremberg film, had both been members of the American Communist Party, and would later be called by HUAC, although Schulberg had broken with, and been expelled by, the Party before WWII.

*trials this coming fall and to – at that time – emphasize in our exploitation that our film is a measured historic document and not a coarse appeal to the political emotions. If this plan is adopted in Germany, it will give us some time to fully develop a version which may not only be satisfactory for our principal Germanic audience, but may also be satisfactory for such releases as you may have had in mind for the Schulberg version.”<sup>46</sup>*

Even more embarrassingly, five weeks later, on May 21, *The New York Post* reported:

*“The Stanley Theatre in Times Square will show the Nuremberg trial film. But this is the Russian version. The complete, four-power movie is being made by Pare Lorentz and will be ready in two months...Schulberg & Zigman are in Berlin completing the movie based on the official transcript and stressing the real philosophy of the trials.”<sup>47</sup>*

And on Jun 8, 1947, *Variety* dug behind the scenes to blare:

### ***CLAIM INTERNAL US ARMY SNARL LET REDS BEAT YANKS ON NUREMBERG FILM***

*“Internal wrangling in the U. S. War Dept. has handed the Russians a flying start in reaching the world’s screens with their version of the Nuremberg trials. Split on policy between Army brass in Washington and Army toppers in Berlin caused the projected four-power film on the trial to come a cropper...Exact point at which the Washington and Berlin groups differed has been kept strictly sub rosa but it’s believed to revolve around the highest policy level.”<sup>48</sup>*

### ***A Belated Find***

More than six months had passed since the Nuremberg judgment. Schulberg and Zigman were pushing hard to complete their film, working out of cutting rooms at Berlin’s Tempelhof Studio. In June, they found new, explosive footage. It was turned over to Schulberg by a Dr. Rudolf Goldschmidt, who had acquired the Berlin residence of Artur Nebe,<sup>49</sup> former commander of *SS Einsatzgruppen B*. In September and October 1941, Nebe’s SS unit had been charged with liquidating the Jews of Mogilev and Minsk, as well as patients from the area’s lunatic asylums. Their efforts were facilitated by Albert Widmann, a chemist affiliated with the Forensics Institute in Berlin, who conducted what are believed to be the Nazis’ first experimental gassing of human beings. This use of an improvised gas chamber was apparently filmed by Nebe himself. Based in part on the success of this experiment, the Nazis later applied this method of asphyxiation on a wider scale, deploying mobile gas vans in the occupied territories.<sup>50</sup> In describing the find, Schulberg wrote:

*“This material is the only known film showing such an atrocity at the very point of being committed. In our opinion, it is a most vital and important contribution to the film evidence of Nazi barbarism.”<sup>51</sup>*

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<sup>46</sup> Gen. McClure’s report to Washington, dated April 10, 1947, Schulberg Family Archive.

<sup>47</sup> “The Lyons Den,” column by Leonard Lyons in the *New York Post*, original clipping, May 21, 1947, Schulberg Family Archive.

<sup>48</sup> “Claim Internal U.S. Army Snarl Let Reds Beat Yanks on Nuremberg Film,” *Variety*, June 11, 1947, original clipping in Schulberg Family Archive.

<sup>49</sup> Artur Nebe eventually turned against Hitler and Himmler, becoming involved in assassination plots against both men. After being judged guilty by the Volksgericht (People’s Court), he was reportedly garroted with piano wire in March 1945.

<sup>50</sup> For more information on this action and the film footage, see [www.holocaustresearchproject.org/nazioccupation/mogilev.html](http://www.holocaustresearchproject.org/nazioccupation/mogilev.html)  
[www.deathcamps.org/gas\\_chambers/gas\\_chambers\\_mogilev.html](http://www.deathcamps.org/gas_chambers/gas_chambers_mogilev.html)

<sup>51</sup> Memo from Stuart Schulberg to Dr. Goldschmidt, June 18, 1947, acknowledging receipt of the film material shot by Nebe, and describing its content, Schulberg Family Archive.

Schulberg decided to include the scene of the Mogilev gassing in *Nuremberg*, despite the fact it had not been shown in the Nuremberg courtroom. To my knowledge, it remains the only motion picture evidence of atrocity in the finished film that was not shown at the trial.

### ***In the Trenches***

The OMGUS hierarchy was still not reconciled to having lost control of the Nuremberg trial film. To complicate matters, McClure took over Lorentz's position in the U.S and now occupied Lorentz's former CAD field office in New York City.<sup>52</sup> Though Eric Pommer had replaced Lorentz as chief overseer of Schulberg's work, and despite the fact that Lorentz had officially resigned from the project, he continued to shield and encourage Schulberg from a distance.

As the film neared completion, many issues swirled around Schulberg and Zigman: whether to incorporate the testimony of "ordinary Germans" as proposed by Carl Zuckmayer, a German consultant on the project,<sup>53</sup> how much graphic footage of the concentration camps to include, and how to cast the German and English language narrators.

On September 29, 1947, a cut was tested on an insider group in Berlin that included U.S. Ambassador Murphy, the ICD legal director Alvin Rockwell, Col. Textor, and Mrs. Pommer. Lorentz's old nemesis Eric Clarke was evidently on board by then, and cooperating with Schulberg. Clarke's memo to Schulberg conveyed the comments of the VIPs:

*"As the party broke up Ambassador Murphy said in general he thought people should be complimented on the general excellence of the film. Mr. Steere said he fully agreed. Mr. Rockwell [the OMGUS legal director who had concocted his own script months earlier] said he was fully satisfied with all the major considerations. He has made many notes of detailed points and would be glad to arrange a discussion of these upon his return 2 October."*<sup>54</sup>

On November 11, 1947, a rough cut of the film with a temporary sound track, which had been sent to the U.S, was screened for Pare Lorentz in New York. A few days later it was shown in Washington to Generals Noce and McClure, Solicitor General Adrian Fisher, Supreme Court Justices Felix Frankfurter and Robert H. Jackson, and Secretary of the Army Kenneth Royall.<sup>55</sup> Their comments were conveyed to Schulberg in Berlin.

There was some debate regarding how the film should end, which may have been prompted by a 3-page letter that Lorentz addressed to Justice Jackson on November 12, outlining a whole new epilogue:

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<sup>52</sup> Lorentz's office had been located in the CAD field office at 292 Madison Avenue in Manhattan, whereas McClure occupied an office at 111 East 16th Street. These addresses are found on stationery used by Lorentz & McClure; letters in Schulberg Family Archive.

<sup>53</sup> Carl Zuckmayer, the distinguished German playwright and director, had immigrated to the U.S., and worked for the War Department's Civil Affairs Division. His views on how a Nuremberg trial film could best appeal to the German people had been solicited in 1946, and he had proposed that the film include man-on-the-street interviews to be conducted after the trial. His memo to this effect is in Schulberg Family Archive.

<sup>54</sup> Letter from Eric Clarke to Stuart Schulberg, September 29, 1947, Schulberg Family Archive.

<sup>55</sup> Secretary Kenneth Royall, appointed Secretary of War in mid-July 1947, served until mid-September 1947 with that title. Thereafter, the title was abolished, and he was named the first Secretary of the Army, a position he held until April 1949.

*“...I should like to repeat some statements from your opening speech right after the verdicts are read, and use them as a way to lead into an epilogue. For Germany, this epilogue should, in my opinion, make these points:*

- The paragraph by Secretary Stimson regarding the trials, in which he points out why the trials were the most decent course of action we could have chosen.*
- The section in the Potsdam Declaration that explains why it is necessary to occupy Germany.*
- The fact that we have not brought the gas chamber, and the slave labor camp.*
- The things we have done for the children and the fact that the children will have to create a Germany fit to be given equal rights in Europe and the world.*

*There are more scenes taken by US Government newsreel men in Germany since the occupation that could easily be edited into an epilogue along the lines I have suggested.”<sup>56</sup>*

It is not clear whether Schulberg was made privy to Lorentz’s letter to Jackson; no copy was found in Schulberg’s Nuremberg papers. But Schulberg did respond to the comments that had emerged the New York and Washington screenings via a memo to Pommer and Clarke, dated November 18, 1947.<sup>57</sup> Responding to one concern, he wrote:

*“I do not consider Jewish emphasis too great since Jews were by far the largest identifiable group in the extermination program. However, this comment will be considered further and perhaps some cuts made.”*

Regarding the controversial Mogilev footage, he wrote:

*“In the final version, sound effect of a running motor will be used over shots of the improvised gas chamber (Mogilev). We believe this will clarify the point that gas is being piped into the building. As for identification, the testimony of Lahousen<sup>58</sup> states that such things took place all over the Eastern territories.*

And, as regards concerns conveyed to him about the ending, he stated quite categorically:

*“First of all, it should have been made clear to the groups in New York and Washington that the rough cut carried no real ending since we had not developed one by the time that version was sent to New York. The ending written since then, however, definitely ends on a constructive note. It does not hold out any superficial ‘hope for the future’ but it does explain the opportunity for a better future based on the principles and the findings of the Nuremberg trial. I believe that a trite epilogue showing ‘reopening schools, churches, re-establishment of civil liberties’ etc., would ring false, turn the picture into an overt propaganda film and damage the essential documentary quality of the film.”*

The cut shown in November was, as Schulberg had indicated, only a work in progress. The film was still more than 3 months away from completion. The Schulberg records do not indicate whether a later version of the film was screened for the approval of War Department officials or Justice Jackson in the spring of 1948. But presumably, those who had final approval gave their assent after being notified of the changes Schulberg intended to make – or not -- in response to their comments.

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<sup>56</sup> Letter from Pare Lorentz to Justice Robert H. Jackson, dated November 12, 1947, obtained from NARA, photocopy in Schulberg Family Archive.

<sup>57</sup> Memo from Stuart Schulberg to Eric Clarke through Eric Pommer, November 18, 1947, Schulberg Family Archive.

<sup>58</sup> General Erwin von Lahousen was a high-ranking official in the German army, who was involved in the plots to assassinate Hitler on March 13, 1943, and July 20, 1944. He testified against Goering during the Nuremberg trial, and his testimony is included in Stuart Schulberg’s film, *Nuremberg: Its Lesson for Today*.

## ***Choosing a Title***

Schulberg also wrestled with a title for the film. For months, the working title had been *THE NUREMBERG TRIALS/DER NÜRNBERGER PROZESS*. But on the cover of the script dated Sept 25, 1947, two new possibilities were listed: *DER TAG BRICHT AN (A NEW DAY DAWNS)*, and *DIES IRAE (DAY OF WRATH)*.<sup>59</sup>

On the “final recording copy” of the script, dated April 2, 1948, the words “Working Title/Arbeitstitel: *NÜRNBERGER PROZESS*” are crossed out, and Schulberg has handwritten *NÜRNBERG UND SEINE LEHRE*, subsequently translated as *NUREMBERG: ITS LESSON FOR TODAY*.<sup>60</sup>

It had been a long, difficult process, but the final result embodied the ideals and gravitas that Lorentz, Schulberg, and Justice Jackson had sought from the very beginning, and that Schulberg had finally been able to deliver. Or so he thought.

Thus by the end of April 1948, Schulberg had completed *Nuremberg*, and – while OMGUS officials were fretting about how and when to release it – was already in production on a slate of re-orientation films for German audiences. Having won over his former OMGUS foes and rivals, he had been made head of Military Government’s new Documentary Film Unit, and was producing its first titles: *Hunger, It’s Up To You!* and *Me and Mr. Marshall*.

## ***Blockade!***

Germany and Berlin were divided into four Allied Zones, but the entire city of Berlin was located within the Russian Zone.

When the Soviets imposed the Berlin blockade in June of 1948, the post-war calculus was changed irrevocably. U.S. Military Government focused on providing coal, food and medicine, all of which was brought into Berlin on planes that landed every three minutes, night and day, for the next 11 months. Denazification, from then on, would take second place to survival.

The blockade also fostered a certain amount of political dithering and confusion in Germany. The German people, especially in Berlin, needed to be bolstered. The three Allied powers that were holding the line against the Soviets needed to rally the world’s sympathy for Germany and the Germans. A film about the Nuremberg trial would only remind other countries of Nazi atrocities, and possibly demoralize the Germans themselves.

For nearly three years, OMGUS Civil Affairs officers had been grappling with the Germans’ appetite for self-criticism, and finding it was not so easy to vanquish the Führer principle and sell democracy in its stead. In this time of trouble, might Germans, seeing their old heroes on the screen again, seek a new Führer figure?

In this climate, it is perhaps remarkable that *Nuremberg* would be released at all, but it was.

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<sup>59</sup> Dies Irae (Day of Wrath), a 13th century Latin hymn, is used as part of the Catholic Mass.

<sup>60</sup> As noted in earlier footnote, multiple drafts of the Schulberg scripts, including these, exist in the Schulberg Family Archive. For a complete list, see Nuremberg film website: [www.nurembergfilm.org/script\\_inventory.shtml](http://www.nurembergfilm.org/script_inventory.shtml).



## ***Nuremberg Film Premieres in Germany on the Anniversary of the Trial***

The German premiere of *Nuernberg und seine Lehre* took place at the Kamera cinema in Stuttgart on November 21, 1948, at 10:30 in the morning. In a letter to her parents, Barbara Schulberg (Stuart's wife) noted the reason for its mid-morning debut:

*"Scott [chief of the OMGUS Film Branch in the province of Wuerttemberg-Baden] decided it would be unwise to make a thing about the picture. He sneaked it in between editions of the newspaper and arranged everything to be as unpretentious as possible...a policy that [nonetheless] brought out a Nazi crowd well sprinkled with young ex-Hitler Jungen."*<sup>61</sup>

John Scott's official report on the public's response, which was addressed to Arthur Mayer (then chief of the OMGUS Motion Picture Branch in Berlin), was forwarded to General McClure in New York. It opened with a strong endorsement: *"There is no question but that this film has positive value and should be shown to as many Germans as possible."*<sup>62</sup>

Scott appended detailed survey notes on the range of audience reactions, as well as the reasons for choosing the theater, the rationale for the poster design, and the box office reports. They charted dozens of reactions, ranging from a few who asserted that the concentration camp scenes had been staged, through those who thought that other countries, especially the USSR, had committed equally heinous war crimes, to those who were overwhelmed with guilt.

Audiences flooded to the cinema, and *Nuremberg* broke the house records. Col. Gordon Textor (director of Information Services Division) told McClure that, based on the reactions, OMGUS was considering a general release of the film in January 1949.

*Nuernberg und seine Lehre* was widely distributed in Germany; though because of the blockade, the Berlin runs were delayed until the summer of 1949. Schulberg's own report of the film's release appeared in the official OMGUS Information Bulletin.

*"NUREMBERG has been a resounding success, whether it played a big city, five-show-a-day movie palace or a camp-chair country theater...Critically, too, its reception was unexpectedly good. Newspapers everywhere urged their readers to hurry to the next performance...Audiences sat through the picture in stunned silence and then filed out, wordless and disturbed...According to one ISD official in Wuerttemberg-Baden, 'this film tells the Germans more about Nazism in 80 minutes than we've been able to tell them in three years.'"*<sup>63</sup>

## ***War Dept Plans U.S. Release of Nuremberg***

As *Nuremberg* neared completion, *Variety's* headline presaged the American release:

### ***US ARMY WANTS MAJORS TO DISTRIBUTE 5-REELER ON THE NUREMBERG TRIAL***

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<sup>61</sup> Letter from Barbara Schulberg to her parents, Carter and Florence Goodrich, November 27, 1948, Schulberg Family Archive. Carter Goodrich was chairman of the governing body of the UN's International Labor Organization, and a professor of economics and labor history at Columbia University.

<sup>62</sup> John Scott's memo to Arthur Mayer, forwarded to Gen. McClure at CAD in New York, by Col. Textor at OMGUS, in Berlin, Schulberg Family Archive. This was the same John Scott, whose script had been proposed by OMGUS film officers in the fall of 1946, and rejected as unsuitable by Jackson and Lorentz. By now, Scott was apparently a friend and supporter of Stuart Schulberg, as evidenced by multiple photographs of the Scott and Schulberg families on vacation together in Europe.

<sup>63</sup> OMGUS Information Bulletin, September 1949, Schulberg Family Archive.

*“US Army will, in all likelihood, seek major company distribution for its five-reel filmization [sic] of the Nuremberg trial, which is now nearing completion in Germany. While policy has yet to be cleared in Washington, the Army’s Civilian Affairs Division is anxious to get major company reaction to the pic with some sort of US theatrical distribution in mind.*

*“Final editing of the film is now under way and it’s expected that a print will reach the CAD within two weeks. Besides considerable footage of the trial itself, it includes a good part of the evidence film [The Nazi Plan] which was effectively used to obtain a conviction of the Nazi overlords.”<sup>64</sup>*

In April 1948, the U.S. Congress enacted the European Recovery Program – dubbed the “Marshall Plan.” Reconstructing and unifying Europe was the new policy, and Germany’s industrial and agricultural resources were viewed as essential. This public policy shift required a new public relations campaign. Now the State Department took an interest in the film. It was suddenly not so desirable to be reliving the Nuremberg trial.

The scenes of atrocity were troubling, to say the least. Even Lorentz had raised the issue in his private letter to Jackson, noting, *“The concentration camp footage should be shortened. Some of the skulls and close shots are unnecessary.”<sup>65</sup>*

During the spring of 1949, the director of Public Relations for Universal Pictures, William Gordon, put the kibosh on the notion of major theatrical distribution for the film:

*“I personally feel that [the picture] certainly has no place at this, or any other time, in general theatre distribution for the entertainment seeking public...[T]he subject matter and the way it is treated is altogether too gruesome to stomach – and I mean that literally.”<sup>66</sup>*

After getting that reaction from a major studio, it is perhaps not so surprising that those government officials who wanted to see the film in wide release retreated. But there were also allegations of censorship.

### ***Censored?***

As word of *Nuremberg’s* German release was picked up by American journalists, rumors began to spread that Army and State Department officials were getting cold feet about releasing it in the U.S. Walter Winchell excoriated them in a piece for his *Daily Mirror* newspaper column, dated March 6, 1949:

### ***THE HALL OF SHAME***

*“State Dept and Army officials have verboten the exhibition of an Army documentary film in the USA detailing the criminal history of Nazism. They fear – Oh! – that ‘it would revive anti-German feeling in the USA?’...Could there be any wilder idiocy? Those whose duty it was to eradicate Nazism are now endeavoring to eradicate evidence of its brutality – thus making themselves accessories to the Nazi crimes. They might as well burn hundreds of books about Nazi infamies and all newspaper files...Make no mistake about it: What these dangerous officials fear is that such films would remind Americans of their scandalous failure in*

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<sup>64</sup> “U.S. Army Wants Majors to Distribute 5-Reeler of the Nuremberg Trial,” undated *Variety* article, original clipping in Schulberg Family Archive.

<sup>65</sup> Letter from Pare Lorentz to Justice Robert H, Jackson, dated November 12, 1947, cited above.

<sup>66</sup> Letter from William Gordon, Director of Public Relations, Universal-International Pictures, Universal City, California, to Major John, E Horton, Chief, Pictorial Section, Public Information Division, Department of the Army, March 21, 1949, obtained from NARA, photocopy now in Schulberg Family Archive.

*Germany. The most shocking scandal since Teapot Dome...Americans will remember Nazi crimes so long as there are graves of American soldiers and gold stars in mothers' windows. They will never forget – so long as an American child is free to read a history book.*<sup>67</sup>

In the autumn of 1949, nearly a year after the German release of the film, John Norris, a reporter for *The Washington Post*, began an investigation. His first story, dated September 19, was headlined:

***ARMY RELUCTANT TO CLARIFY INACTION ON NUERNBERG FILM***<sup>68</sup>

*“An unfinished documentary film dealing with Germany – described by top American foreign correspondents as ‘terrific’ and ‘a masterpiece’ even in its present rough state – has been turned down by the Department of the Army for the public release to movie theaters in the United States.*

*“Mystery surrounds the suppression. No one at the Pentagon professes to know why orders to finish the film were not obeyed. And several accounts are given as to why the Army now refuses to lease it to private producers for completion and public showing.*

*“Made by Army occupation authorities, the movie tells the dramatic story of the rise and fall of Nazism – from the Munich beer halls to the Nuernberg trials and executions.*

*“It graphically describes in detail what Henry L. Stimson has called ‘the most highly organized and extensive wickedness in history,’ using the war crimes trials as the vehicle and flashbacks from captured Nazi films to show the actual events.*

*“A German-language version of the film has been shown throughout the Western Zones of the Reich to capacity audiences. It has been a smash box office hit.*

*“Yet two years of effort to secure its release to an American producer for completion and exhibition to United States audience have proved futile...Various reasons have been given privately to movie men for these decisions – which in their eyes amount to suppression. Army officials have said that the film – entitled ‘Nuernberg: Its Lesson for Today’ [sic] – is ‘outdated,’ ‘professionally poor,’ ‘dull and uninteresting’ and contains ‘too much horror.’ Such opinions either conflict directly with those of the New York critics who were shown the rough film, or involve points which were scheduled to be removed in the final processing.*

*“Movie men, therefore, believe there are other reasons for the Army’s stand on the entire matter. They are asking further questions which raise problems more fundamental than the movie itself. Army officials, incidentally, object to statements that they have ‘suppressed’ the movie. Technically – but only technically – they are right. It has been shown freely in Germany and one 35-millimeter rough print is available at the Pentagon. The latter has been screened privately for small groups of editors, lawyers and movie men in various cities. And once the 16-millimeter film is stocked in Signal Corps libraries, it will be available for showing to bar associations, church groups and school children – in its present form...But it is clear that this limited, ‘amateur’ distribution of an unfinished product is a far different thing than a public release of a completed, professional film and billing at established theaters.”*

Norris suggested a possible source of those problems:

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<sup>67</sup> Walter Winchell, *New York Daily Mirror*, March 6, 1949, Schulberg Family Archive.

<sup>68</sup> “Army Reluctant to Clarify Inaction on Nuremberg Film,” by John Norris, *The Washington Post*, September 19, 1949, as well as his articles dated September 20, and September 21, 1949, Schulberg Family Archive. It is unknown whether the journalists (Winchell and Norris) who were attempting to document suppression of *Nuremberg* were aware of the March 21, 1949, letter from Universal Pictures.

*"...it is known that strong forces in the Army opposed the entire war crimes program from the beginning – or at least after it was decided to try German army chiefs and general staff members. Army Secretary Kenneth Royall and Undersecretary Draper were said to be in this camp and clearly were in favor of rebuilding Germany as a bulwark against communism. Too quickly and with too little regard for a resurgence of Nazism, some said."*

Norris interviewed the author of *The Rise and Fall of the Third Reich* regarding the Army's position:

*"It's an evasion and a subterfuge," said William B. Shirer, foreign correspondent and commentator. 'By all means this great film should be finished and widely shown instead of buried in a 16-millimeter Signal Corps subject.' Shirer was one of the score of critics, editors and writers who were shown the film last winter and praised it highly. He described the Army's record of opposition to showing the film as a 'scandal' and declared that he hoped the 'whole, stinking story will be blasted out.'"*

John Gunther reacted the same way:

*"I liked the picture tremendously," says Gunther, author of Inside USA, Inside Europe, etc. 'And I think it ought to be shown in every city, town and hamlet in the country. The Army's decision not to release it for a general showing is monstrous and shocking.'"*

Justice Jackson was quoted as saying that the New York City Bar Association had wanted to show *Nuremberg*, but unable to obtain a copy from the Pentagon, it had been forced to screen the Soviet film.

Norris followed up with two additional articles on September 20 and 21, respectively. In each article he mentioned that Pare Lorentz had made offers to finish the film at his own expense. The opinionated tone of Norris's three pieces is striking, as is the amount of copy he devotes to Pare Lorentz and his numerous pleas to rescue the film from the Army's vaults. Nowhere in any of the three long articles does he disclose that Pare Lorentz's father-in-law, Eugene Meyer, owned *The Washington Post*.

On the other hand, this was clearly an important and politically sensitive story, and the Army's evasiveness did smack of a cover-up to Norris and others at the time.

*"The issue, said Shirer to the Washington Post, is whether the American people are adult enough to decide what pictures they want to see, or whether the Army should do it for them. The generals are trying to rule on what we shall see..."*

Norris, the *Post* reporter, added:

*"Others have suggested that there are those in authority in the United States who feel that Americans are so simple that they can hate only one enemy at a time. Forget the Nazis, they advise, and concentrate on the Reds."*

## **Epilogue**

As the *Washington Post* reported, Pare Lorentz had offered to purchase the film from the Army (in early 1948), in order to release it to American theaters himself. Through his attorney Charles Horksy, Lorentz reiterated his request six months later, in July 1948.<sup>69</sup> This was not a theoretical proposal; Lorentz had

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<sup>69</sup> Letter from Charles Horksy, Covington, Burling, Buble, Acheson & Shorb, Washington, DC, to Major General Bryant E. Moore, Chief, public Information Division, Department of the Army, July 22, 1948, obtained from NARA, photocopy now in Schulberg Family Archive. It begins: "Pare Lorentz Associates, Inc., is desirous of obtaining the right to bid for commercial distribution outside of the occupied areas of the Department of the Army film 'The Nuremberg trial.'" He

gotten commercial movie theaters around the country to exhibit his 1936 and 1938 documentaries, *The Plow That Broke the Plains* and *The River*.

Meanwhile, the film's other champion, Supreme Court Justice Jackson, had been pressing the government as to when it would release the film. A letter addressed to him on November 19, 1948, by Secretary of the Army Kenneth Royall, seemed conclusively opposed:

*"In this country no general release is under consideration. It is my opinion that the theme is contrary to present policies and aims of the government; therefore, it is felt that the picture at this time can be of no significant value to the Army and Nation as a whole."*<sup>70</sup>

The Army sat on Lorentz's proposal.

Apparently, it was still considering how to respond two years later. In January 1950, an internal State Department report was forwarded to Col. George S. Eyster by Colonel Edward Young, Chief of the War Crimes Division of the Army JAG (Judge Advocate General) Corps. The (anonymous) State Department report reiterated the entire history of the Nuremberg film, including its successful release in Germany, where it noted that the film was still running. The cover memo from Young stated, among other facts, that General William Draper had responded to Lorentz & Horsky's July 1948 request *"to the effect that the War Department had not decided whether or not [sic] to show the movie to the U.S. Public."*<sup>71</sup> In 1950, it took no action either.

In the event, the film was never released in theaters to the general public.

Pare Lorentz had fought valiantly to get *Nuremberg* made, and later interviews with him reveal that it broke his heart to see it locked away.

But the fact was that the political climate had changed. Lorentz sensed this, and had expressed as much in his letter of November 12, 1947, to Justice Jackson:

*"[A]n epilogue should be added showing the new Germany and what should be done about democratization."*

On reading his pleas, one is struck by their poignancy, for in his effort to trim his sail to catch the prevailing wind, he was forced, in part, to disavow the film he had so staunchly advocated. By reframing the film for American audiences and worldwide distribution as the Cold War was starting, he was simply trying to save it. But the political crosswinds were too fierce, and even Lorentz, who had so cleverly outmaneuvered the military hierarchy three years earlier, could not sail through.

Pare Lorentz would never make another film, and *Nuremberg: Its Lesson for Today* would not be theatrically released in the United States in his lifetime. Nor would it be released in the lifetimes of Justice Jackson, Stuart Schulberg, or Joseph Zigman. Jackson died in 1954, Schulberg in 1979, Lorentz in 1992, and Zigman in 1996.

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references similar arrangements entered into with Columbia Pictures, Warner Brothers, and Monogram for release of pictures made for/by the War Department, and offers, "in accordance with past practices," to share any profits with the War Department.

<sup>70</sup> Letter from Kenneth C. Royall, Secretary of the Army, to Robert H. Jackson, United States Supreme Court, November 19, 1948, photostan courtesy of Professor John Q. Barrett.

<sup>71</sup> Letter and memo from Colonel Edward Young, JAGC, Chief, War Crimes Division, Department of the Army to Colonel George S. Eyster, January 26, 1950, including attached State Department report (anonymous and undated), obtained from NARA, photocopy in Schuiberger Family Archive.

In 2003, the heirs of Barbara & Stuart Schulberg discovered in their mother's home a cache of documents tracing the hunt for the Nazi films assembled for the Nuremberg courtroom and the making of *Nuremberg*. Their daughter, film producer Sandra Schulberg, embarked on a quest to restore the film, enlisting filmmaker Josh Waletzky in the effort. Together, they created a new 35mm negative – made from the best extant 35mm print of the completed film – and re-constructed the dialogue, narration, and music tracks. Actor Liev Schreiber was engaged to re-record Stuart Schulberg's original narration, which could be heard on the surviving English-language prints.

*Nuremberg: Its Lesson for Today [The Schulberg/Waletzky Restoration]* premiered in The Hague in November 2009, in honor of Erasmus Prize-winners Benjamin Ferencz and Antonio Cassese. A year later, in the autumn of 2010, it was finally released for the first time to theaters in the United States. Since then, it has been acclaimed by critics around the country, and is slowly making its way – in multiple language versions – around the world.

### ***Nuremberg's "Lesson for Today"***

In his opening statement in the Nuremberg courtroom, Robert H. Jackson pointed the Tribunal to what he called "the greatest menace of our time – aggressive war." He believed that the Tribunal should not only punish war crimes and crimes against humanity, but that it should also punish and thus deter the very act of making war.

The idea that he and his fellow prosecutors wished to bring an end to war by making it illegal may strike us as fanciful today, but that is what they sought.

The last line of the film states: *"Let Nuremberg stand as a warning to all who plan and wage aggressive war."*

The world has wrestled with this aspect of the Nuremberg legacy ever since.

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